CIVIL RIGHTS

HEARINGS

BEFORE

SUBCOMMITTEE NO. 5

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH CONGRESS

FIRST SESSION

ON

H. R. 140, 142, 143, 159, 359, 360, 363, 374, 395, 424, 437, 438, 439, 440, 441, 542, 548, 549, 550, 551, 552, 555, 887, 956, 957, 958, 959, 1097, 1099, 1100, 1101, 1102, 1134, 1151, 1254, 2145, 2153, 2375, 2835, 3088, 3481, 3613, 3616, 3617, 3618, 3793, 3945, 3946, 3951, 3955, 3956, 3957, 3959, 4121, 4126, 4269, 4420, 4496, 4782

MISCELLANEOUS BILLS REGARDING THE CIVIL RIGHTS OF PERSONS WITHIN THE JURISDICTION OF THE UNITED STATES

FEBRUARY 4, 5, 6, 7, 13, 14, 25, AND 26, 1957

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CIVIL RIGHTS

MONDAY, FEBRUARY 4, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5, OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to call, at 10 a. m., in room 346, House Office Building, Hon. Emanuel Celler, chairman, presiding.

Present: Representatives Celler (presiding), Rogers, Keating, McCulloch, Miller.

Also present: Representatives Willis and Forrester.

Also present: William R. Foley, General Counsel.

The CHAIRMAN. The subcommittee will come to order, please.

There are before us today 45 bills, introduced by various Members of Congress which is indicative of the continued and widespread interest maintained on the subject of civil rights. This is particularly true in view of the reception—good or bad—to the school desegregation decision of the United States Supreme Court in 1951.

Without objection we will include the various bills at this point in the record.

(The bills follow:)

[H. R. 140, 85th Cong., 1st sess.]

A BILL To protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That the Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination or segregation based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(1) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(2) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(3) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or rleigion, in accordance with the undertaking of the United States under the United Nations Charter

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—FOR THE BETTER ASSURANCE OF THE PROTECTION OF CITIZENS OF THE UNITED STATES AND OTHER PERSONS WITHIN THE SEVERAL STATES FROM MOB VIOLENCE AND LYNCHING, AND FOR OTHER PURPOSES

SEC. 101. The provisions of this title are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment to the Constitution of the United States and for the purpose of better assuring by the several States under said amendment equal protection and due process of law to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

SEC 102. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, religion, color, national origin, ancestry, or language, or (b) exercise or attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this title. Any such violence by a lynch mob shall constitute lynching within the meaning of this title.

PUNISHMENT FOR LYNCHING

SEC. 103. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 104. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 105. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title.

COMPENSATION FOR VICTIMS OF LYNCHING

SEC. 106. (1) Every governmental subdivision of a State to which the State shall have delegated functions of police shall be responsible for any lynching occurring within its territorial jurisdiction. Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynching or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person, or to his or her next of kin if such injury results in death, for a sum of not less than $2,000 and not more than $10,000 as monetary compensation for such injury or death: *Provided, however,* That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further,* That the satisfaction of judgment against one governmental subdivision responsible for a lynching shall bar further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(2) Liability arising under this section may be enforced and the compensation herein provided for may be recovered in a civil action in the United States district court for the judicial district of which the defendant governmental subdivision is a part. Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose of this title the next of kin of a deceased victim of lynching shall be determined according to the laws of interstate distribution in the State of domicile of the decedent. Any judgment or award under this title shall be exempt from all claims of creditors.

(3) Any judge of the United States district court for the judicial district wherein any suit shall be instituted under the provisions of this title may by order direct that such suit be tried in any place in such district as he may designate in such order: *Provided,* That no such suit shall be tried within the territorial limits of the defendant governmental division.

SEC. 107. The crime defined in and punishable under title 18, United States Code, section 1201 (a), shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

SHORT TITLE

SEC. 108. This title may be cited as the "Federal Anti-Lynching Act".

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201 Title 18, United States Code, section 241 is amended to read as follows:

"§ 241. CONSPIRACY AGAINST RIGHTS OF CITIZENS

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C., secs. 81 et seq), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC 203. (a) Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. CERTAIN RIGHTS PROTECTED UNDER SECTION 242

"The rights privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

(b) The analysis of chapter 13 of title 18 of the United States Code is amended by adding immediately below

"242. Deprivation of rights under color of law."

the following:

"242A Certain rights protected under section 242."

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"§ 1583. ENTICEMENT INTO SLAVERY

"Whoever holds or kidnaps or carries away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both."

PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"§ 594. INTIMIDATION OF VOTERS

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

SEC. 12. Section 2004 of the Revised Statutes of the United States (42 U. S. C., sec. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C., sec. 1983), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of title 18, United States Code, section 594, shall be subject to suit by the party injured, or by his estate, in any action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of title 18, United States Code, section 594, and section 2004 of the Revised Statutes of the United States shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district

courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C., secs. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C., secs. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C., secs. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

TITLE III—TO PROHIBIT DISCRIMINATION IN EMPLOYMENT, BECAUSE OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR ANCESTRY

SHORT TITLE

SEC. 301. This title may be cited as the "National Act Against Discrimination in Employment."

FINDINGS AND DECLARATION OF POLICY

SEC. 302. (a) The Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security

and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) It is hereby declared to be the policy of the United States to protect the right recognized and declared in subdivision (b) hereof and to eliminate all such discrimination to the fullest extent permitted by the Constitution. This title shall be construed to effectuate such policy.

DEFINITIONS

SEC. 303 As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly.

(c) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment.

(d) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory; or between points in the same State but through any point outside thereof

(e) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(f) The term "Commission" means the National Commission Against Discrimination in Employment, created by section 306 hereof.

EXEMPTIONS

SEC. 304. This Act shall not apply to any State or municipality or political subdivision thereof, or to any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than labor organizations.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 305. (a) It shall be an unlawful employment practice for an employer—

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

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, religion, color, national origin, or ancestry.

(c) It shall be an unlawful employment practice for any employer or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE NATIONAL COMMISSION AGAINST DISCRIMINATION IN EMPLOYMENT

SEC. 306. (a) There is hereby created a commission to be known as the National Commission Against Discrimination in Employment, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $10,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent designated to conduct a proceeding or a hearing shall be a resident of the Federal judicial circuit, as defined in title 28, United States Code, section 41, within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint such agents and employees as it deems necessary to assist it in the performance of its functions;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this title, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizen residents of the area for which they are appointed, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 307. (a) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of a Commission, that any person subject to the title has engaged in any unlawful employment practice, the Commission shall investigate such charge and it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during such endeavors may be used as evidence in any subsequent proceeding.

(b) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this title, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(c) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(d) At the conclusion of a hearing before a member or designated agent of the Commission the entire record thereof shall be transferred to the Commission, which shall designate three of its qualified members to sit as the Commission and to hear on such record the parties at a time and place to be specified upon reasonable notice.

(e) All testimony shall be taken under oath.

(f) The respondent shall have the right to file a verified answer to such written charge and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(g) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(h) Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(i) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the title. If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint.

(j) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(k) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act, Public Law 404, Seventy-ninth Congress, approved June 11, 1946.

JUDICIAL REVIEW

SEC. 308. (a) The Commission shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia) or, if the circuit court of appeals to which application might be made is in vacation, any district court of the United States (including the Supreme Court of the District of Columbia) within any circuit wherein the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall

conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10c and 10e of the Administrative Procedure Act.

(b) Upon such filing, the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commissioner, its member, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals, if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in title 28, United States Code, section 1254.

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioner or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by sections 10a and 10b of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INVESTIGATORY POWERS

SEC 309. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States or any Territory or possession thereof, at any designated place of hearing

(d) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court of the United States, or the United States courts of any Territory or possession, or the Supreme Court of the District of Columbia, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES

SEC. 310. The provisions of section 308 shall not apply with respect to an order of the Commission under section 307 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or any officer or employee thereof The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders. The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 311. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deem appropriate to effectuate the purposes of this title

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense

VETERANS' PREFERENCE

SEC. 312. Nothing contained in this title shall be construed to repeal or modify any Federal or State law creating special rights or preference for veterans

RULES AND REGULATIONS

SEC. 313 (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution nor shall any regulation or amendment having the same effect as that concerning which the concurrent resolution was passed be issued thereafter by the Commission

(b) Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 314. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this title, or because of such performance, shall be punished by a fine of not more than $500 or by imprisonment for not more than one year, or by both.

TITLE IV—TO PROHIBIT DISCRIMINATION OR SEGREGATION IN THE ARMED SERVICES

SEC. 401. Notwithstanding the provisions of any other law there shall be no discrimination against or segregation of any person in the armed services of the United States, or the units thereof, or the reserve components thereof, by reason of the race, religion, color, or national origin of such person.

TITLE V—TO ELIMINATE SEGREGATION AND DISCRIMINATION IN OPPORTUNITIES FOR HIGHER AND OTHER EDUCATION

SEC. 501. This title may be cited as the "Educational Opportunities Act of 1957"

FINDINGS AND DECLARATION OF POLICY

SEC. 502. The Congress hereby finds and declares that the American idea of equality of opportunity requires that students otherwise qualified be admitted to educational institutions without regard to race, color, religion, or national origin, except that with regard to religious or denominational educational institutions, students otherwise qualified shall have the equal opportunity to attend therein without discrimination because of race, color, or national origin, it being recognized as a fundamental right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to advocate the religious principles in furtherance of which they are maintained and nothing herein contained shall impair or abridge that right.

DEFINITIONS

SEC. 503 As used in this Title—

(a) "Educational institution" means any educational institution of postsecondary grade subject to the visitation, examination, or inspection by the appropriate State agency supervising education within each State.

(b) "Religious or denominational educational institution" means an educational institution which is operated, supervised, or controlled by a religious or denominational organization and which has certified to the appropriate State commissioner of education, or official performing similar duties, that it is a religious or denominational educational institution.

UNFAIR EDUCATIONAL PRACTICES

SEC. 504 (a) It shall be an unfair educational practice for an educational institution—

(1) to exclude, limit, or otherwise discriminate against any person or persons seeking admission as students to such institution because of race, religion, color, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination, or from giving preference in such selection to such members, or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained; and

(2) to penalize any individual because he has initiated, testified, participated, or assisted in any proceedings under this title.

(b) it shall not be an unfair educational practice for any educational institution to use criteria other than race, religion, color, or national origin in the admission of students.

CERTIFICATION OF RELIGIOUS AND DENOMINATIONAL INSTITUTIONS

SEC. 505. An educational institution operated, supervised, or controlled by a religious or denominational organization may, through its chief executive officer,

certify in writing to the Commissioner of Education (hereinafter referred to as the "Commissioner") that it is so operated, controlled, or supervised, and that it elects to be considered a religious or denominational educational institution, and it thereupon shall be deemed such an institution for the purposes of this section.

PROCEDURE

SEC. 506. (a) Any person seeking admission as a student, who claims to be aggrieved by an alleged unfair educational practice (hereinafter referred to as the "petitioner"), may himself, or by his parent, or guardian, make, sign, and file with the Commissioner a verified petition which shall set forth the particulars thereof and contain such other information as may be required by the Commissioner. The Commissioner shall thereupon cause an investigation to be made in connection therewith; and after such investigation if he shall determine that probable cause exists for credting the allegations of the petition, he shall attempt by informal methods of persuasion, conciliation, or mediation to induce the elimination of such alleged unfair educational practice.

(b) Where the Commissioner has reason to believe that an applicant or applicants have been discriminated against, except that preferenital selection by religious or denominational institutions of students of their own religion or denomination shall not be considered an act of discrimination, he may initiate an investigation on his own motion.

(c) The Commissioner shall not disclose what takes place during such informal efforts at persuasion, conciliation, or mediation, nor shall he offer in evidence in any proceeding the facts adduced in such informal efforts.

(d) A petition pursuant to this section must be filed with the Commissioner within one year after the alleged unfair educational practice was committed.

(e) If such informal methods fail to induce the elimination of an alleged unfair educational practice, the Commissioner shall issue and cause to be served upon such insitution, hereinafter called the respondent, a complaint setting forth the alleged unfair educational practice charged and a notice of hearing before the Commissioner, or his designated representative, at a place therein fixed to be held not less than twenty days after the service of said complaint. Any complaint issued pursuant to this section must be issued within two years after the alleged unfair educational practice was committed.

(f) The respondent shall have the right to answer the original and any amended complaint and to appear at such hearing by counsel, present evidence, and examine and cross-examine witnesses.

(g) (1) For the purpose of all investigations, proceedings, or hearings which the Commissioner deems necessary or proper for the exercise of the powers vested in him by this title, the Commissioner, or his designated representative, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commissioner, or his designated representative, conducting such investigation, proceeding, or hearing.

(2) The Commissioner, or the representative designated by the Commissioner for such purposes, may administer oaths, examine witnesses, and receive evidence.

(3) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(4) In the case of contumacy or refusal to obey a subpena issued to any person under this title, any district court of the United States as constituted by chapter 5, title 28, United States Code (28 U. S. C., secs. 81 and the following), or the United States court of any Territory or other place subject to the jurisdiction of the United States, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commissioner, shall have jurisdiction to issue to such person an order requiring him to appear before the Commissioner, or his designated representative, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(5) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commissioner on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or

produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committeed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(h) After the hearing is completed the Commissioner shall file an intermediate report which shall contain his findings of fact and conclusions upon the issues in the proceeding. A copy of such report shall be served on the parties to the proceeding. Any such party within twenty days thereafter may file with the Commissioner exceptions to the findings of fact and conclusions, with a brief in support thereof, or may file a brief in support of such findings of fact and conclusions.

(i) If, upon all the evidence, the Commissioner shall determine that the respondent has engaged in an unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served upon such respondent a copy of such findings and conclusions and an order terminating, at the conclusion of the applicable school year, all programs of Federal aid of which such respondent is the beneficiary.

(j) If, upon all the evidence, the Commissioner shall find that a respondent has not engaged in any unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served on the petitioner and respondent a copy of such findings and conclusions, and an order dismissing the complaint as to such respondent.

JUDICIAL REVIEW

SEC. 507. (a) Any respondent aggrieved by a final order of the Commissioner may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unfair educational practice in question was alleged to have been engaged in or wherein such respondent is located, by filing in such court a written petition praying that the order of the Commissioner be modified or set aside. A copy of such petition shall be forthwith served upon the Commissioner and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commissioner, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commissioner.

(b) Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act; and shall have jurisdiction of the proceeding and of the questions determined therein and shall have the power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commissioner.

(c) No objection that has not been urged before the Commissioner, or his representative, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commissioner, or his representative, the court may order such additional evidence to be taken before the Commissioner, or his representative, and to be made a part of the transcript.

(e) The Commissioner may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(g) The commencement of proceedings under subsection (a) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commissioner's order.

MISCELLANEOUS PROVISIONS

SEC. 508. This title shall take effect at the beginning of the semester or academic year, as the case may be, following its enactment for each educational institution to which it is applicable.

AMENDMENTS TO PUBLIC LAWS 874 AND 815 (81ST CONGRESS)

SEC. 509. Section 8 of Public Law 874, Eighty-first Congress, approved September 30, 1950, as amended (20 U. S. C., sec. 243), is amended by adding at the end thereof the following new subsection:

"(e) In carrying out his functions under this Act the Commissioner shall not make any payments or certify for any payments any local educational agency which discriminates among pupils or prospective pupils by reason of their race, religion, color or national origin or segregates pupils or prospective pupils by virtue thereof."

SEC. 510. Subsection (a) of section 207 of Public Law 815, Eighty-first Congress, approved September 23, 1950, as amended (20 U S. C., sec. 277), is amended by striking out "or (3)" and inserting in lieu thereof "(3)", and by inserting immediately after "carried out," the following: "or (4) that there is discrimination or segregation among pupils or prospective pupils by reason of race, religion, color, or national origin,".

TITLE VI—MAKING UNLAWFUL THE REQUIREMENT FOR THE PAYMENT OF A POLL TAX AS A PREREQUISITE TO VOTING IN A PRIMARY OR OTHER ELECTION FOR NATIONAL OFFICERS

SEC. 601. This title may be cited as the "Federal Anti-Poll-Tax Act".

SEC. 602. The requirement that a poll tax be paid as a prerequisite to voting or registering to vote at primaries or other elections for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, is not and shall not be deemed a qualification of voters or electors voting or registering to vote at primaries or other elections for said officers, within the meaning of the Constitution, but is and shall be deemed an interference with the manner of holding primaries and other elections for said national officers and a tax upon the right or privilege of voting for said national officers and an impairment of the republican form of government.

SEC. 603. It shall be unlawful for any State, municipality, or other government or governmental subdivision to prevent any person from voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, on the ground that such person has not paid a poll tax, and any such requirement shall be invalid and void insofar as it purports to disqualify any person otherwise qualified to vote in such primary or other election. No State, municipality, or other government or governmental subdivision shall levy a poll tax in such primary or other election, and any such tax shall be invalid and void insofar as it purports to disqualify any person otherwise qualified from voting at such primary or other election.

SEC. 604. It shall be unlawful for any State, municipality, or other government or governmental subdivision to interfere with the manner of selecting persons for national office by requiring the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for Pesident, Vice Pesident, electors for President or Vice President, or for Senator or Member of the House of Representatives, and any such requirement shall be invalid and void.

SEC. 605. It shall be unlawful for any person, whether or not acting under the color of authority of the laws of any State, municipality, or other government or governmental subdivision, to require the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives.

SEC. 606. For the purposes of this title, a poll tax shall be construed to include the levy or requirement of any charge, evidenced by any form of liability, upon the right to vote or to register for voting.

TITLE VII—TO PROHIBIT SEGREGATION AND DISCRIMINATION IN HOUSING BECAUSE OF RACE, RELIGION, COLOR, OR NATIONAL ORIGIN

SEC. 701. Notwithstanding the provisions of any other law—

(1) No home mortgage shall be insured or guaranteed by the United States or any agency thereof, or by any United States Government corporation, unless the mortgagor certifies under oath that in selecting purchasers or tenants for any

property covered by the mortgage he will not discriminate against any person or family by reason of race, color, religion, or national origin, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the appropriate authority responsible for such insurance; and

(2) In the administration of the National Housing Act, as amended, the Federal Home Loan Bank Act, as amended, the United States Housing Act of 1937, as amended, the Housing Acts of 1949 and 1950, as amended, the Act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes", approved October 14, 1940, as amended, and the Servicemen's Readjustment Act of 1944, as amended, it shall be the policy of the United States that there shall be no discrimination affecting any tenant, owner, borrower, or recipient or beneficiary of a mortgage guaranty by reason of race, color, religion, or national origin, or segregation by virtue thereof; nor shall there be any discrimination or segregation by reason of race, color, religion, or national origin in the provision, operation, and maintenance of community facilities or housing under the provisions of the Defense Housing and Community Facilities and Services Act of 1951.

TITLE VIII—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

Establishment of a Commission on Civil Rights in the Executive Branch of the Government

Sec. 801 There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

Sec 802. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

Sec. 803. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize services of voluntary and uncompensated personnel and to pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

(c) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 811. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 812. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 821. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. Not more than four members on the Joint Committee in the Senate and House of Representatives, respectively, shall belong to one political party.

SEC. 822. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 823. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 824. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C., secs. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures, as, in its discretion, it deems necessary and advisable. The cost of stenographic service to report hearings of the Joint Committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words.

SEC. 825. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 826. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

[H. R. 142, 85th Cong., 1st sess.]

A BILL To establish and prescribe the duties of a Civil Rights Division in the Department of Justice, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be within the Department of Justice a Civil Rights Division.

SEC. 2. One of the Assistant Attorneys General shall exercise direct supervision and control over the Civil Rights Division.

SEC. 3. The Attorney General shall delegate all of his functions relating to the enforcement of Federal laws relating to the protection of civil rights to the Civil Rights Division, except such of those functions as he shall retain and exercise himself or shall delegate to the Federal Bureau of Investigation. It shall be the responsibility of the Civil Rights Division to conduct a continuous survey to determine in what respects improvement may be obtained in securing to the people their civil rights, and to determine the best means of obtaining such improvement

SEC. 4 There is hereby authorized in the Department of Justice one additional Assistant Attorney General who shall be appointed by the President by and with the advice and consent of the Senate who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

SEC. 5. The personnel of the Federal Bureau of Investigation shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to civil rights, and such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 143, 85th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act.

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestery, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3 The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinctions as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter and the law of nations As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 5. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession, or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6 Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both: *Provided, however,* That where such lynching results in death or maim-

ing or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC 9. The crime defined in and punishable under section 1201 (a) of title 18 of the United States Code shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, national origin, ancestry, language, or religion or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10 (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a prepon-

derance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the Distric of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 159, 85th Cong., 1st sess.]

A BILL For the better assurance of the protection of citizens of the United States and other persons within the several States from mob violence and lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment to the Constitution of the United States and for the purpose of better assuring by the several States under said amendment equal protection and due process of law to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

SEC. 2. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this act. Any such violence by a lynch mob shall constitute lynching within the meaning of this Act.

PUNISHMENT FOR LYNCHING

SEC. 3. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 4. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with

the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any members of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 5. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or shall have had custody of the person or person lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or Governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act.

COMPENSATION FOR VICTIMS OF LYNCHING

SEC. 6 (1) Every governmental subdivision of a State to which the State shall have delegated functions of police shall be responsible for any lynching occurring within its territorial jurisdiction Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynching or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person, or to his or her next of kin if such injury results in death, for a sum of not less than $2,000 and not more than $10,000 as monetary compensation for such injury or death: *Provided, however,* That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further,* That the satisfaction of judgment against one government subdivision responsible for a lynching shall bar further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(2) Liability arising under this section may be enforced and the compensation herein provided for may be recovered in a civil action in the United States district court for the judicial district of which the defendant governmental subdivision is a part Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose

of this Act the next of kin of a deceased victim of lynching shall be determined according to the laws of intestate distribution in the State of domicile of the decedent. Any judgment or award under this Act shall be exempt from all claims of creditors.

(3) Any judge of the United States district court for the judicial district wherein any suit shall be instituted under the provisions of this Act may by order direct that such suit be tried in any place in such district as he may designate in such order: *Provided*, That no such suit shall be tried within the territorial limits of the defendant governmental subdivision.

SEC. 7. The crime defined in and punishable under section 1201 of title 18 of the United States Code shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

SEPARABILITY CLAUSE

SEC. 8. If any particular provision, sentence, or clause, or provisions, sentences, or clauses of this Act, or the application thereof to any particular person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SHORT TITLE

SEC. 9. This Act may be cited as the "Federal Antilynching Act"

[H. R. 359, 85th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act".

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or pun-

ishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter and the law of nations. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 5 (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any

Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both: *Provided, however,* That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 9. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202), shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical, or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which

local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 360, 85th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin: any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit

by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H R. 363, 85th Cong., 1st sess.]

A BILL To amend sections 241 and 242 of title 18, United States Code

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 241 of title 18 of the United States Code is amended to read as follows:

"If two or more persons conspire to injure, oppress, threaten, or intimidate any person in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or".

SEC. 2. Section 242 of such title is amended to read as follows:

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both".

[H. R. 374, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1957".

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC 102. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 103. (a) The Commission shall—

(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 104. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jursdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 105. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read,

"§ 1343. Civil Rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

SEC. 131. Section 2004 of the Revised Statues (42 U. S. C. 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights."

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representative, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 395, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1957".

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission of Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations, as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

RULES OF PROCEDURE

SUBCOMMITTEES, MEETINGS, INVESTIGATIONS, AND REPORTS

SEC. 102 (a) Subcommittees, as required, shall be appointed by the Commission Chairman subject to the approval of the majority of the Commission and shall ordinarily consist of no less than three members. Subcommittees of less than three members may be designated by the Chairman, subject to the approval of the majority of the Commission.

(b) Commission meetings shall be called only upon a minimum of sixteen hours' written notice to the office of each Commission member. This provision may be waived by the assent of the majority of the members of the Commission.

(c) Commission hearings (whether public or in executive session) and Commission investigations shall be scheduled and conducted only upon the majority vote of the Commission in a meeting at which a majority of the Commission is actually present.

(d) A resolution or motion scheduling hearings or ordering a particular investigation shall state clearly and with particularity the subject thereof, which resolution may be amended only upon majority vote of the Commission in a meeting at which a majority of the Commission is actually present.

(e) The Chairman or a member shall consult with appropriate Federal law enforcement agencies with respect to any phase of an investigation which may result in evidence exposing the commission of Federal crimes, and the results of such consultation shall be reported to the Commission before witnesses are called to testify therein.

(f) No Commission report shall be issued unless a draft of such report is submitted to the office of each Commission member twenty-four hours in advance of the meeting at which it is to be considered and is adopted at a meeting at which a majority is actualy present.

(g) No testimony given in executive session or part or summary thereof shall be released or disclosed orally or in writing by a member or employee of the Commission without the authorization of the Commission by majority vote at a meeting at which a majority of members is present. No Commission or staff report or news release or statement based upon evidence or testimony adversely affecting a person shall be released or disclosed by the Commission or any member orally or in writing unless such evidence or testimony and the complete evidence or testimony offered in rebuttal thereto, if any, is published prior to or simultaneously with the issuance of the report, or news release, or statement.

(h) The rule as to the secrecy of executive sessions as set forth in subsection (g) of this section shall be applicable to members and employees of the Commission for a reasonable period following an executive session until the Commission has had a reasonable time to conclude the pertinent investigation and hearings and to issue a report; subject, however, to any decision by a Commission majority for prior release in the manner set forth in subsection (g).

HEARINGS

(i) Witnesses at Commission hearings (whether public or in executive session) shall have the right to be accompanied by counsel, of their own choosing, who shall have the right to advise witnesses of their rights and to make brief objections to the relevance of questions and to procedure.

(j) Rulings on motions or objections shall be made by the member presiding, subject to appeals to the members present on motion of a member.

(k) At least twenty-four hours prior to his testifying a witness shall be given a copy of that portion of the motion or resolution scheduling the hearing stating the subject of the hearing; at the same time he shall be given a statement of the subject matters about which he is to be interrogated.

(l) It shall be the policy of the Commission that only evidence and testimony which is reliable and of probative value shall be received and considered by the Commission. The privileged character of communication between clergyman and parishioner, doctor and patient, lawyer and client, and husband and wife shall be scrupulously observed.

(m) No testimony shall be taken in executive session unless at least two members of the Commission are present.

(n) Every witness shall have the right to make complete and brief answers to questions and to make concise explanations of such answers.

(o) Every witness who testifies in a hearing shall have a right to make an oral statement and to file a sworn statement which shall be made a part of the transcript of such hearings, but such oral or written statement shall be relevant to the subject of the hearings.

(p) A stenographic verbatim transcript shall be made of all Commission hearings. Copies of such transcript, so far as practicable, shall be available for inspection or purchase at regularly prescribed rates from the official reporter by any witness or person mentioned in a public hearing. Any witness and his counsel shall have the right to inspect only the complete transcript of his own testimony in executive session.

RIGHTS OF PERSONS ADVERSELY AFFECTED BY TESTIMONY

(q) A person shall be considered to be adversely affected by evidence or testimony of a witness if the Commission determines that: (i) the evidence or testimony would constitute libel or slander if not presented before the Commission or (ii) the evidence or testimony alleges crime or misconduct or tends to disgrace or otherwise to expose the person to public contempt, hatred, or scorn.

(r) Insofar as practicable, any person whose activities are the subject of investigation by the Commission, or about whom adverse information is proposed to be presented at a public hearing of the Commission, shall be fully advised by the Commission as to matters into which the Commission proposes to inquire and the adverse material which is proposed to be presented. Insofar as practicable, all material reflecting adversely on the character or reputation of any individual which is proposed to be presented at a public hearing of the Commission shall be first reviewed in executive session to determine its reliability and probative value and shall not be presented at a public hearing except pursuant to majority vote of the Commission.

(s) If a person is adversely affected by evidence or testimony given in a public hearing, that person shall have the right: (i) to appear and testify or file a sworn statement in his own behalf, (ii) to have the adverse witness recalled upon application made within thirty days after introduction of such evidence or determination of the adverse witness' testimony, (iii) to be represented by counsel as heretofore provided, (iv) to cross-examine (in person or by counsel) such adverse witness, and (v) subject to the discretion of the Commission, to obtain the issuance by the Commission of subpenas for witnesses, documents, and other evidence in his defense. Such opportunity for rebuttal shall be afforded promptly and, so far as practicable, such hearing shall be conducted at the same place and under the same circumstances as the hearing at which adverse testimony was presented.

Cross-examination shall be limited to one hour for each witness, unless the Commission by majority vote extends the time for each witness or group of witnesses.

(t) If a person is adversely affected by evidence or testimony given in executive session or by material in the Commission files or records, and if public release of such evidence, testimony, or material is contemplated, such person shall

have, prior to the public release of such evidence or testimony or material or any disclosure of or comment upon it by members of the Commission or Commission staff or taking of similar evidence or testimony in a public hearing, the rights heretofore conferred and the right to inspect at least as much of the evidence or testimony of the adverse witness or material as will be made public or the subject of a public hearing.

(u) Any witness (except a member of the press who testifies in his professional capacity) who gives testimony before the Commission in an open hearing which reflects adversely on the character or reputation of another person may be required by the Commission to disclose his sources of information, unless to do so would endanger the national security.

SUBPENAS

(v) Subpenas shall be issued by the Chairman of the Commission only upon written notice to all members of the Commission, with a statement as to the identity of the witness or material and their relevancy to the investigation or hearing already authorized. Upon the request of any member of the Commission, the question of whether a subpena shall be issued or remain in force if already issued shall be decided by a majority vote.

COMMISSION STAFF

(w) The composition and selection of, and changes in, the professional and clerical staff of the Commission shall be subject to the vote of a majority of the members of the Commission.

TELEVISION AND OTHER MEANS OF COMMUNICATION AND REPORTING

(x) Subject to the physical limitations of the hearing room and consideration of the physical comfort of Commission members, staff, and witnesses, equal access for coverage of the hearings shall be provided to the various means of communication, including newspapers, magazines, radio, newsreels, and television. It shall be the duty of the Commission Chairman to see that the various communication devices and instruments do not unreasonably distract, harass, or confuse the witness or interfere with his presentation.

(y) No witness shall be televised, filmed, or photographed during the hearing if he objects on the ground of distraction, harassment, or physical handicap.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 104. (a) The Commission shall—

(1) investigate allegations in writing that certain citizens of the United States are being deprived of their right to vote or that certain persons in the United States are voting illegally or are being subjected to unwarranted economic pressures by reason of their sex, color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 105. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman: *Provided*, That notwithstanding anything to the contrary in this Act contained, the Commission shall not constitute or appoint any subcommittee of less than two members, one member to be from each political party affiliation.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 106. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ASSISTANT ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read,

"§ 1343. Civil rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

SEC. 131. Section 2004 of the Revised Statutes (42 U. S. C. 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 424, 85th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1957".

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the

United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three members of the Commission shall be members of the same political party. In appointing the members of the Commission, the President is requested to provide, insofar as possible, representation for the various geographic areas of the United States. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

SEC. 4. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

(c) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

SEC. 6. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of

Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 437, 85th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 438, 85th Cong, 1st sess]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2 Section 1583 of such title is amended to read as follows:

"SEC. 1583. Enticement into slavery. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"SEC. 1584. Sale into involuntary servitude. Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 439, 85th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Intimidation of voters. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose

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

SEC. 2. Section 2204 of the Revised Statues (42 U. S. C. 1971) is amended to read as folows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such action and section 2004 of the Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 440, 85th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. Conspiracy against rights of citizens. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or district in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or district in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or district in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law.

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or district to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of rights, privileges, and immunities.

"The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 4. (a) Whenever any inhabitant of any State, Territory, or District is deprived of any right, privilege, or immunity secured or protected by the Constitution or laws of the United States, or upon a showing by evidence that he is about to be deprived of any such right, privilege, or immunity, he, or the Attorney General for the United States, or in the name of the United States, but for the benefit of the real party in interest, may institute a civil action or other proper proceeding for redress, or preventive or declaratory relief, including an application for a restraining order, declaratory judgment, temporary or permanent injunction.

(b) The District Courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies provided by law and without regard to the amount of the matter in controversy.

SEC. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 441, 85th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act".

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter, and the law of nations. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 5. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property, because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction of punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both: *Provided, however*, That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person

who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 9. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202), shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10 (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates sections 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application there of to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R 542, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1957."

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

RULES OF PROCEDURE

SUBCOMMITTEES, MEETINGS, INVESTIGATIONS, AND REPORTS

SEC. 102. (a) Subcommittees, as required, shall be appointed by the Commission Chairman subject to the approval of the majority of the Commission and shall ordinarily consist of no less than three members. Subcommittees of less than three members may be designated by the Chairman, subject to the approval of the majority of the Commission.

(b) Commission meetings shall be called only upon a minimum of sixteen hours' written notice to the office of each Commission member. This provision may be waived by the assent of the majority of the members of the Commission.

(c) Commission hearings (whether public or in executive session) and Commission investigations shall be scheduled and conducted only upon the majority vote of the Commission in a meeting at which a majority of the Commission is actually present.

(d) A resolution or motion scheduling hearings or ordering a particular investigation shall state clearly and with particularity the subject thereof, which resolution may be amended only upon majority vote of the Commission in a meeting at which a majority of the Commission is actually present.

(e) The Chairman or a member shall consult with appropriate Federal law enforcement agencies with respect to any phase of an investigation which may result in evidence exposing the commission of Federal crimes, and the results of such consultation shall be reported to the Commission before witnesses are called to testify therein.

(f) No Commission report shall be issued unless a draft of such report is submitted to the office of each Commission member twenty-four hours in advance of the meeting at which is it to be considered and is adopted at a meeting at which a majority is actually present.

(g) No testimony given in executive session or part or summary thereof shall be released or disclosed orally or in writing by a member or employee of the Commission without the authorization of the Commission by majority vote at a meeting at which a majority of members is present. No Commission or staff report or news release or statement based upon evidence or testimony adversely affecting a person shall be released or disclosed by the Commission or any member orally or in writing unless such evidence or testimony and the complete evidence or testimony offered in rebuttal thereto, if any, is published prior to or simultaneously with the issuance of the report, or news release, or statement.

(h) The rule as to the secrecy of executive sessions as set forth in subsection (g) of this section shall be applicable to members and employees of the Commission for a reasonable period following an executive session until the Commission has had a reasonable time to conclude the pertinent investigation and hearings and to issue a report; subject, however, to any decision by a Commission majority for prior release in the manner set forth in subsection (g).

HEARINGS

(i) Witnesses at Commission hearings (whether public or in executive session) shall have the right to be accompanied by counsel, of their own choosing, who shall have the right to advise witnesses of their rights and to make brief objections to the relevancy of questions and to procedure.

(j) Rulings on motions or objections shall be made by the member presiding, subject to appeals to the members present on motion of a member.

(k) At least twenty-four hours prior to his testifying a witness shall be given a copy of that portion of the motion or resolution scheduling the hearing stating the subject of the hearing; at the same time he shall be given a statement of the subject matters about which he is to be interrogated.

(l) It shall be the policy of the Commission that only evidence and testimony which is reliable and of probative value shall be received and considered by the Commission. The privileged character of communication between clergyman and parishioner, doctor and patient, lawyer and client, and husband and wife shall be scrupulously observed.

(m) No testimony shall be taken in executive session unless at least two members of the Commission are present.

(n) Every witness shall have the right to make complete and brief answers to questions and to make concise explanations of such answers.

(o) Every witness who testifies in a hearing shall have a right to make an oral statement and to file a sworn statement which shall be made a part of the transcript of such hearings, but such oral or written statement shall be relevant to the subject of the hearings.

(p) A stenographic verbatim transcript shall be made of all Commission hearings. Copies of such transcript, so far as practicable, shall be available for inspection or purchase at regularly prescribed rates from the official reporter by any witness or person mentioned in a public hearing. Any witness and his counsel shall have the right to inspect only the complete transcript of his own testimony in executive session.

RIGHTS OF PERSONS ADVERSELY AFFECTED BY TESTIMONY

(q) A person shall be considered to be adversely affected by evidence or testimony of a witness if the Commission determines that: (i) the evidence or testimony would constitute libel or slander if not presented before the Commission or (ii) the evidence or testimony alleges crime or misconduct or tends to disgrace or otherwise to expose the person to public contempt, hatred, or scorn.

(r) Insofar as practicable, any person whose activities are the subject of investigation by the Commission, or about whom adverse information is proposed to be presented at a public hearing of the Commission, shall be fully advised by the Commission as to the matters into which the Commission proposes to inquire and the adverse material which is proposed to be presented. Insofar as practicable, all material reflecting adversely on the character or reputation of any individual which is proposed to be presented at a public hearing of the Commission shall be first reviewed in executive session to determine its reliability and probative value and shall not be presented at a public hearing except pursuant to majority vote of the Commission.

(s) If a person is adversely affected by evidence or testimony given in a public hearing, that person shall have the right: (i) to appear and testify or file a sworn statement in his own behalf, (ii) to have the adverse witness recalled upon application made within thirty days after introduction of such evidence or determination of the adverse witness' testimony, (iii) to be represented by counsel as heretofore provided, (iv) to cross-examine (in person or by counsel) such adverse witness, and (v) subject to the discretion of the Commission, to obtain the issuance by the Commission of subpenas for witnesses, documents, and other evidence in his defense. Such opportunity for rebuttal shall be afforded promptly and, so far as practicable, such hearing shall be conducted at the same place and under the same circumstances as the hearing at which adverse testimony was presented.

Cross-examination shall be limited to one hour for each witness, unless the Commission by majority vote extends the time for each witness or group of witnesses.

(t) If a person is adversely affected by evidence or testimony given in executive session or by material in the Commission files or records, and if public release of such evidence, testimony, or material is contemplated, such person shall have, prior to the public release of such evidence or testimony or material or any disclosure of or comment upon it by members of the Commission or Commission staff or taking of similar evidence or testimony in a public hearing, the rights heretofore conferred and the right to inspect at least as much of the evidence or testimony of the adverse witness or material as will be made public or the subject of a public hearing.

(u) Any witness (except a member of the press who testifies in his professional capacity) who gives testimony before the Commission in an open hearing which reflects adversely on the character or reputation of another person may be required by the Commission to disclose his sources of information, unless to do so would endanger the national security.

SUBPENAS

(v) Subpenas shall be issued by the Chairman of the Commission only upon written notice to all members of the Commission, with a statement as to the identity of the witness or material and their relevancy to the investigation or hearing already authorized Upon the request of any member of the Commission, the question of whether a subpena shall be issued or remain in force if already issued shall be decided by a majority vote.

COMMISSION STAFF

(w) The composition and selection of, and changes in, the professional and clearical staff of the Commission shall be subject to the vote of a majority of the members of the Commission.

TELEVISION AND OTHER MEANS OF COMMUNICATION AND REPORTING

(x) Subject to the physical limitations of the hearing room and consideration of the physical comfort of Commission members, staff, and witnesses, equal access for coverage of the hearings shall be provided to the various means of communication, including newspapers, magazines, radio, newsreels, and television. It shall be the duty of the Commission Chairman to see that the various communication devices and instruments do not unreasonably distract, harass, or confuse the witness or interfere with his presentation.

(y) No witness shall be televised, filmed, or photographed during the hearing if he objects on the ground of distraction, harassment, or physical handicap.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 103 (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence. inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 104. (a) The Commission shall—

(1) investigate allegations in writing that certain citizens of the United States are being deprived of their right to vote or that certain persons in the United States are voting illegally or are being subjected to unwarranted economic pressures by reason of their sex, color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 105. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman: *Provided*, That notwithstanding anything to the contrary in this Act contained, the Commission shall not constitute or appoint any subcommittee of less than two members, one member to be from each political party affiliation.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 106. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ASSISTANT ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read,

"§ 1343. Civil Rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

SEC. 131. Section 2004 of the Revised Statutes (42 U. S. C. 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 548, 85th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or district in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or district in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise on enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in as action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 549, 85th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1955".

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 4. It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 104. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 550, 85th Cong., 1st sess.]

A BILL To protect the civil rights of individuals by establishing a Commission on Civil Rights in the Executive branch of the Government, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1957".

TITLE I—COMMISSION ON CIVIL RIGHTS

SEC. 101. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 102. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 103. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activties adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 104 (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 105 (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

TITLE II—CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

SEC. 201. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 202. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the pro-

duction of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC. 305. Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 401. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both

"(b) If any person injures, oppresses, threatens, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or

other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of rights, privileges, and immunities

"The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LAWS PROTECTING RIGHT TO POLITICAL PARTICIPATION

SEC. 501. Title 18, United States Code, section 594, is amended to read as follows:

"§594. Intimidation of voters

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

SEC. 502. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary not withstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 503. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section and of section 2004 of the Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have juisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 504. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE VI—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 601. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 602. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 603. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

TITLE VII—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 701. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceedings for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United tSates as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 702. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or at-

tempts to segregate such passengers or otherwise discriminates against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action of law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.) or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction

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[H. R 551, 85th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H R. 552, 85th Cong, 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the

Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 555, 85th Cong., 1st sess.]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 887, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1956".

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence of disability of the Chairman, or the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 102. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 103. (a) The Commission shall—

(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President as a final and comprehensive report of its activities, findings and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 104 (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and

any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 105. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read,

"§ 1343. Civil Rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

SEC. 131. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights."

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, re-

straining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 956, 85th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 957, 85th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act".

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter, and the law of nations. As to citizens of the United States, such right additionally accrues by virtue of such citizenship Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 5 (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee, or any person or persons suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof,

or any officer or employee of the United States, the District of Columbia, or any Territory, possession, or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both: *Provided, however,* That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 9. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C 1201, 1202) shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates sections 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include one reasonable attorney's fee.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within 3 years after the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 958, 85th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are citizens who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section

(1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" include any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 959, 85th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1957."

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (referred to in this Act as the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affects its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 4. It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress, legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 104. (a) The Commission shall have the power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdicton of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 1097, 85th Cong., 1st sess.]

A BILL To provide protection of persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act".

SEC. 2. The Congress finds as fact that the succeeding provisions of this Act are necessary—

(a) to insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution;

(b) to safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials;

(c) to promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

SEC. 3. It is hereby declared that the right to be free from lynching is a right of all persons within the jurisdiction of the United States. Such right is in addition to any similar rights they may have as citizens of any of the several States or as persons within their jurisdiction.

SEC. 4. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, color, religion, or national origin, or (b) exercise or attempt to exercise, by physical violence against person or property, any power of correction or punishment over any person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob

within the meaning of this Act. Any such violence or attempt by a lynch mob shall constitute lynching within the meaning of this Act.

SEC. 5. Any person, whether or not a member of a lynch mob, who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the wrongful conduct herein results in death or maiming, or damage to property as amounts to an infamous crime under applicable State or Territorial law. An infamous crime, for the purposes of this section, shall be deemed one which under applicable State or Territorial law is punishable by imprisonment for more than one year.

SEC. 6. (a) Whenever a lynching shall occur, any peace officer of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

(b) Whenever a lynching shall occur in any Territory, possession, District of Columbia, or in any other area in which the United States shall exercise exclusive criminal jurisdiction, any peace officer of the United States or of such Territory, possession, District, or area, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

SEC. 7. For the purposes of this Act, the term "peace officer" shall include those officers, their deputies, and assistants who perform the functions of police personnel, sheriffs, constables, marshals, jailers, or jail wardens, by whatever nomenclature they are deignated.

SEC. 8. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202, 10), shall include knowingly transporting, or causing to be transported, in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, or national origin, or for purposes of punishment, conviction, or intimidation

SEC. 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H R 1099, 85th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin

"(6) The right to vote as protected by Federal law."

SEC. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 1100, 85th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the

House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC 2 Section 2004 of the Revised Statutes (8 U. S C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; and constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H R. 1101, 85th Cong., 1st sess]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1957."

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

RULES OF PROCEDURE

SUBCOMMITTEES, MEETINGS, INVESTIGATIONS, AND REPORTS

SEC. 102. (a) Subcommittees, as required, shall be appointed by the Commission Chairman subject to the approval of the majority of the Commission and shall ordinarily consist of no less than three members. Subcommittees of less

than three members may be designated by the Chairman, subject to the approval of the majority of the Commission.

(b) Commission meetings shall be called only upon a minimum of sixteen hours' written notice to the office of each Commission member. This provision may be waived by the assent of the majority of the members of the Commission.

(c) Commission hearings (whether public or in executive session) and Commission investigations shall be scheduled and conducted only upon the majority vote of the Commission in a meeting at which a majority of the Commission is actually present.

(d) A resolution or motion scheduling hearings or ordering a particular investigation shall state clearly and with particularity the subject thereof, which resolution may be amended only upon majority vote of the Commission in a meeting at which a majority of the Commission is actually present

(e) The Chairman or a member shall consult with appropriate Federal law enforcement agencies with respect to any phase of an investigation which may result in evidence exposing the commission of Federal crimes, and the results of such consultation shall be reported to the Commission before witnesses are called to testify therein.

(f) No Commission report shall be issued unless a draft of such report is submitted to the office of each Commission member twenty-four hours in advance of the meeting at which it is to be considered and is adopted at a meeting at which a majority is actually present.

(g) No testimony given in executive session or part of summary thereof shall be released or disclosed orally or in writing by a member or employee of the Commission without the authorization of the Commission by majority vote at a meeting at which a majority of members is present. No Commission or staff report or news release or statement based upon evidence or testimony adversely affecting a person shall be released or disclosed by the Commission or any member orally or in writing unless such evidence or testimony and the complete evidence or testimony offered in rebuttal thereto, if any, is published prior to or simultaneously with the issuance of the report, or news release, or statement.

(h) The rule as to the secrecy of executive sessions as set forth in subsection (g) of this section shall be applicable to members and employees of the Commission for a reasonable period following an executive session until the Commission has had a reasonable time to conclude the pertinent investigation and hearings and to issue a report; subject, however, to any decision by a Commission majority for prior release in the manner set forth in subsection (g).

HEARINGS

(i) Witnesses at Commission hearings (whether public or in executive session) shall have the right to be accompanied by counsel, of their own choosing, who shall have the right to advise witnesses of their rights and to make brief objections to the relevancy of questions and to procedure.

(j) Rulings on motions or objections shall be made by the member presiding, subject to appeals to the members present on motion of a member.

(k) At least twenty-four hours prior to his testifying a witness shall be given a copy of that portion of the motion or resolution scheduling the hearing stating the subject of the hearing; at the same time he shall be given a statement of the subject matters about which he is to be interrogated.

(l) It shall be the policy of the Commission that only evidence and testimony which is reliable and of probative value shall be received and considered by the Commission. The privileged character of communication between clergymen and parishioner, doctor and patient, lawyer and client, and husband and wife shall be scrupulously observed.

(m) No testimony shall be taken in executive session unless at least two members of the Commission are present.

(n) Every witness shall have the right to make complete and brief answers to questions and to make concise explanations of such answers.

(o) Every witness who testifies in a hearing shall have a right to make an oral statement and to file a sworn statement which shall be made a part of the transcript of such hearings, but such oral or written statement shall be relevant to the subject of the hearings.

(p) A stenographic verbatim transcript shall be made of all Commission hearings. Copies of such transcript, so far as practicable, shall be available for inspection or purchase at regularly prescribed rates from the official reporter by any witness or person mentioned in a public hearing. Any witness and his

counsel shall have the right to inspect only the complete transcript of his own testimony in executive session.

RIGHTS OF PERSONS ADVERSELY AFFECTED BY TESTIMONY

(q) A person shall be considered to be adversely affected by evidence or testimony of a witness if the Commission determines that: (i) the evidence or testimony would constitute libel or slander if not presented before the Commission or (ii) the evidence or testimony alleges crime or misconduct or tends to disgrace or otherwise to expose the person to public contempt, hatred, or scorn.

(r) Insofar as practicable, any person whose activities are the subject of investigation by the Commission, or about whom adverse information is proposed to be presented at a public hearing of the Commission, shall be fully advised by the Commission as to the matters into which the Commission proposes to inquire and the adverse material which is proposed to be presented. Insofar as practicable, all material reflecting adversely on the character or reputation of any individual which is proposed to be presented at a public hearing of the Commission shall be first reviewed in executive session to determine its reliability and probative value and shall not be presented at a public hearing except pursuant to majority vote of the Commission.

(s) If a person is adversely affected by evidence or testimony given in a public hearing, that person shall have the right: (i) to appear and testify or file a sworn statement in his own behalf, (ii) to have the adverse witness recalled upon application made within thirty days after introduction of such evidence or determination of the adverse witness' testimony, (iii) to be represented by counsel as heretofore provided, (iv) to cross-examine (in person or by counsel) such adverse witness, and (v) subject to the discretion of the Commission, to obtain the issuance by the Commission of subpenas for witnesses, documents, and other evidence in his defense. Such opportunity for rebuttal shall be afforded promptly and, so far as practicable, such hearing shall be conducted at the same place and under the same circumstances as the hearing at which adverse testimony was presented.

Cross-examination shall be limited to one hour for each witness, unless the Commission by majority vote extends the time for each witness or group of witnesses

(t) If a person is adversely affected by evidence or testimony given in executive session or by material in the Commission files or records, and if public release of such evidence, testimony, or material is contemplated, such person shall have, prior to the public release of such evidence or testimony or material or any disclosure of or comment upon it by members of the Commission or Commission staff or taking of similar evidence or testimony in a public hearing, the rights heretofore conferred and the right to inspect at least as much of the evidence or testimony of the adverse witness or material as will be made public or the subject of a public hearing.

(u) Any witness (except a member of the press who testifies in his professional capacity) who gives testimony before the Commission in an open hearing which reflects adversely on the character or reputation of another person may be required by the Commission to disclose his sources of information, unless to do so would endanger the national security.

SUBPENAS

(v) Subpenas shall be issued by the Chairman of the Commission only upon written notice to all members of the Commission, with a statement as to the identity of the witness or material and their relevancy to the investigation or hearing already authorized. Upon the request of any member of the Commission, the question of whether a subpena shall be issued or remain in force if already issued shall be decided by a majority vote.

COMMISSION STAFF

(w) The composition and selection of, and changes in, the professional and clerical staff of the Commission shall be subject to the vote of a majority of the members of the Commission.

TELEVISION AND OTHER MEANS OF COMMUNICATION AND REPORTING

(x) Subject to the physical limitations of the hearing room and consideration of the physical comfort of Commission members, staff, and witnesses, equal access

for coverage of the hearings shall be provided to the various means of communication, including newspapers, magazines, radio, newsreels, and television. It shall be the duty of the Commission Chairman to see that the various communication devices and instruments do not unreasonably distract, harass, or confuse the witness or interfere with his presentation.

(y) No witness shall be televised, filmed, or photographed during the hearing if he objects on the ground of distraction, harassment, or physical handicap.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 104. (a) The Commission shall—

(1) investigate allegations in writing that certain citizens of the United States are being deprived of their right to vote or that certain persons in the United States are voting illegally or are being subjected to unwarranted economic pressures by reason of their sex, color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 105. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman: *Provided*, That notwithstanding anything to the contrary in this

Act contained, the Commission shall not constitute or appoint any subcommittee of less than two members, one member to be from each political party affiliation.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 106. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ASSISTANT ATTORNEY GENERAL

SEC. 111 There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read,

"§1343. Civil Rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

SEC. 131. Section 2004 of the Revised Statutes (42 U. S. C. 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to

vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding of redess, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district court of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 1102, 85th Cong., 1st sess.]

A BILL To amend sections 1581, 1583, and 1584 of title 18, United States Code, so as to prohibit attempts to commit the offenses therein proscribed

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended to read as follows:

"Whoever kidnaps, arrests, or carries away any other person, or attempts to kidnap, arrest, or carry away any other person, with the intent that such other person be sold into, held in, or returned to a condition of slavery or involuntary servitude; or

"Whoever entices, persuades, induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or to any other place with the intent that he may be made or held as a slave, or sent out of the country to be so made or held—

"Shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 1134, 85th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF POLICY

SECTION 1. The Congress finds that, despite the progress of our Nation in the field of civil rights, allegations persist that certain citizens of the United States are being deprived of their right to vote and are being subjected to unwarranted economic pressures by reason of their color, race, or religion. It is hereby declared to be the policy of the Congress to assure the citizens of our Nation equality in justice, in opportunity, and in civil rights, regardless of their color, race, or religion.

ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 2 (a) For the purpose of carrying out the policy set forth in section 1 of this Act, there is hereby established a commission to be known as the Commission on Civil Rights (in this Act referred to as the "Commission").

(b) Service of an individual as a member of the Commission or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, 284, 434, or 1914 of title 18 of the United States Code, or section 190 of the Revised Statutes (5 U. S. C. 99).

MEMBERSHIP OF THE COMMISSION

SEC. 3. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of twelve members as follows:

(1) Four appointed by the President of the United States, two from the executive branch of the Government and two from private life;

(2) Four appointed by the President of the Senate, two from the Senate and two from private life; and

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives and two from private life.

(b) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 4. The Commission shall elect a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 5. Seven members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 6. (a) MEMBERS OF CONGRESS.—Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—The members of the Commission who are in the executive branch of the Government shall serve without compensation in addition to that received for their services in the executive branch, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE The members from private life shall each receive $50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

STAFF OF THE COMMISSION

SEC. 7. (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of the civil-service laws and the Classification Act of 1949, as amended.

(b) The Commission may procure, without regard to the civil service laws and the classification laws, temporary and intermittent services to the same extent as is authorized for the departments by section 15 of the Administrative Expenses Act of 1946 (5 U. S. C., sec. 55a), but at rates not to exceed $50 per diem for individuals.

EXPENSES OF THE COMMISSION

SEC. 8. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

DUTIES OF THE COMMISSION

SEC. 9. (a) INVESTIGATION.—The Commission shall study and investigate the administration and enforcement of the laws of the United Sattes relating to civil rights and shall collect information concerning economic, social, and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States to determine what steps, in its opinion, are advisable in order to implement the policy set forth in the first section of this Act. Upon request by any person alleging the deprivation of a right afforded under the Constitution or laws of the United States, the Commission shall provide an opportunity, personally or in writing, for such person to present the allegations of the grievance to the Commission, and the Commission shall thereupon furnish the Attorney General of the United States any information obtained from such hearing in order that he may ascertain whether the allegations presented to the Commission constitute a violation of the laws of the United States.

(b) REPORT.—The Commission shall submit interim reports at such time, or times, as the Commission deems necessary, shall submit a comprehensive report of its activities and the results of its studies to the Congress on or before July 31, 1957, and shall submit its final report not later than October 31, 1957, at which date the Commission shall cease to exist. The final report of the Commission may propose such constitutional amendments, legislative enactments, and administrative actions as in its judgment are advisable to carry out its recommendations.

POWERS OF THE COMMISSION

SEC. 10. (a) HEARINGS AND SESSIONS.—The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpenas may be issued under the signature of the Chairman of the Commission, of such subcommittee, or any duly designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 to 104, inclusive, of the Revised Statutes (U. S. C., title 2, secs. 192–194), shall apply in the case of any failure of any witness to comply with any subpena or to testify when summoned under authority of this section.

(b) OBTAINING OFFICIAL DATA.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this Act; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

[H. R. 1151, 85th Cong., 1st sess.]

A BILL To provide for an additional Assistant Attorney General, to establish a bipartisan Commission on Civil Rights in the executive branch of the Government, to provide means of further securing and protecting the right to vote; to strengthen the civil rights statutes; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC 102. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 103 (a) The Commission shall—

(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 104. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat 810, 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses and/or the production of written or other matters may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which

said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 105. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II--TO PROVIDE FOR AN ADDITIONAL ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read,

"§ 1343. Civil Rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

Section 2004 of the Revised Statutes (42 U. S. C 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured

by subsection (a) or (b), the Attorney General may institute for the United States, or in the name oy the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 1254, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1957."

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SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing

to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 101. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 103. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize services of voluntary and uncompensated personnel and to pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

(c) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 111. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the

direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 112. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

PART 3—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 121. There is established a Joint Committee on Civil Rights (herein called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives The party representation on the Joint Committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 122. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 123. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 124. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words.

SEC. 125 Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 126. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws or the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injuries, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death of maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States within the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both."

PART 2—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right

of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discrimi-

nate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.) or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 2145, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1957."

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SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by se-

curing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 101 There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter call the "Commission") The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission.

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 103. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its function and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC 111. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 112 The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively

the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

PART 3—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 121. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the Joint Committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 122. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 123. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 124. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 125. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 126. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fine not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or im-

prisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242 Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or so compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Section 1980 of the Revised Statutes (42 U. S. C. 1985) is amended by adding at the end thereof a paragraph designated "Fourth" to read as follows:

"Fourth. The several district courts of the United States are invested with jurisdiction to prevent and restrain acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, and Third, and it shall be the duty of the Attorney General to institute proceedings to prevent and restrain such acts or practices."

PART 2—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constitued by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3.—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent or employee, thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdeameanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 2153, 85th Cong., 1st sess.]

A BILL To provide for an additional Assistant Attorney General; to establish a bipartisan Commission on Civil Rights in the executive branch of the Government; to provide means of further securing and protecting the right to vote; to strengthen the civil rights statutes, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 102 (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 103. (a) The Commission shall—

(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 104. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommitte may deem advisable. Subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 105. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II. TO PROVIDE FOR AN ADDITIONAL ASSISTANT ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catchline of said section to read,

"§ 1343. Civil Rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

Section 2004 of the Revised Statutes (42 U. S. C. 1971), is amended as follows:

(a) Amend the catchline of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 2375, 85th Cong., 1st sess.]

A BILL To protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination or segregation based upon race, color, religion, or national origin

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons

threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—FOR THE BETTER ASSURANCE OF THE PROTECTION OF CITIZENS OF THE UNITED STATES AND OTHER PERSONS WITHIN THE SEVERAL STATES FROM MOB VIOLENCE AND LYNCHING, AND FOR OTHER PURPOSES

SEC. 101. The provisions of this title are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the 14th amendment to the Constitution of the United States and for the purpose of better assuring by the several States under said amendment equal protection and due process of law to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

SEC. 102. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, religion, color, national origin, ancestry, or language, or (b) exercise or attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this title. Any such violence by a lynch mob shall constitute lynching within the meaning of this title.

PUNISHMENT FOR LYNCHING

SEC. 103. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 104. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 105. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title.

COMPENSATION FOR VICTIMS OF LYNCHING

SEC. 106. (1) Every governmental subdivision of a State to which the State shall have delegated functions of police shall be responsible for any lynching occurring within its territorial jurisdiction. Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynching or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person, or to his or her next of kin if such injury results in death, for a sum of not less than $2,000 and not more than $10,000 as monetary compensation for such injury or death: *Provided, however*, That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further*, That the satisfaction of judgment against one governmental subdivision responsible for a lynching shall bar further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(2) Liability arising under this section may be enforced and the compensation herein provided for may be recovered in a civil action in the United States district court for the judicial district of which the defendant governmental subdivision is a part. Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose of this title the next of kin of a deceased victim of lynching shall be determined according to the laws of intestate distribution in the State of domicile of the decedent. Any judgment or award under this title shall be exempt from all claims of creditors.

(3) Any judge of the United States district court for the judicial district wherein any suit shall be instituted under the provisions of this title may by order direct that such suit be tried in any place in such district as he may designate in such order: *Provided*, That no such suit shall be tried within the territorial limits of the defendant governmental division.

SEC. 107. The crime defined in the punishable under the Act of June 22, 1932 (47 Stat. 326), as amended by the Act of May 18, 1934 (48 Stat. 781), shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

SHORT TITLE

SEC. 108. This title may be cited as the "Federal Anti-Lynching Act".

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United Sates Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both."

PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish township, school district, municipality or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny any person traveling within the jurisdiction of the United

States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

TITLE III—TO PROHIBIT DISCRIMINATION IN EMPLOYMENT, BECAUSE OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR ANCESTRY

SHORT TITLE

SEC. 301. This title may be cited as the "National Act Against Discrimination in Employment."

FINDINGS AND DECLARATION OF POLICY

SEC. 302. (a) The Congress hearby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) It is hereby declared to be the policy of the United States to protect the right recognized and declared in subdivision (b) hereof and to eliminate all such discrimination to the fullest extent permitted by the Constitution. This title shall be construed to effectuate such policy.

DEFINITIONS

SEC. 303. As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any

agency or instrumentality of the United States or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly.

(c) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment.

(d) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory; or between points in the same State but through any point outside thereof.

(e) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(f) The term "Commission" means the National Commission Against Discrimination in Employment, created by section 306 hereof.

EXEMPTIONS

SEC. 304. This Act shall not apply to any State or municipality or political subdivision thereof, or to any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than labor organizations.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 305. (a) It shall be unlawful employment practice for an employer—

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

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individuals of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, religion, color, national origin or ancestry.

(c) It shall be an unlawful employment practice for any employer or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE NATIONAL COMMISSION AGAINST DISCRIMINATION IN EMPLOYMENT

SEC. 306. (a) There is hereby created a commission to be known as the National Commission Against Discrimination in Employment, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $10,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent designated to conduct a proceeding or a hearing shall be a resident of the Federal judicial circuit, as defined in sections 116 and 308 of the Judicial Code, as amended (U. S. C. Annotated, title 28, secs. 211 and 450), within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint such agents and employees as it deems necessary to assist it in the performance of its functions;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this title, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizen residents of the area for which they are appointed, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 307. (a) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of a Commission, that any person subject to the title has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during such endeavors may be used as evidence in any subsequent proceeding.

(b) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this title, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(c) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(d) At the conclusion of a hearing before a member or designated agent of the Commission the entire record thereof shall be transferred to the Commission, which shall designate three of its qualified members to sit as the Commission and to hear on such record the parties at a time and place to be specified upon reasonable notice.

(e) All testimony shall be taken under oath.

(f) The respondent shall have the right to file a verified answer to such written charge and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(g) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(h) Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(i) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the title. If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint.

(j) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(k) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act, Public Law 404, Seventy-ninth Congress, June 11, 1946.

JUDICIAL REVIEW

SEC. 308. (a) The Commission shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia) or, if the circuit court of appeals to which application might be made is in vacation, any district court of the United States (including the Supreme Court of the District of Columbia) within any circuit wherein the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10c and 10e of the Administrative Procedure Act.

(b) Upon such filing, the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commissioner, its member, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new finding, by reason of additional evidence so taken and filed, and it shall file such

modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals, if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleading and testimony upon which the order complained of was entered and the finding and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioner or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by sections 10a and 10b of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INVESTIGATORY POWERS

SEC. 309. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(d) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court of the United States, or the United States courts of any Territory or possession, or the Supreme Court of the District of Columbia, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES

SEC. 310. The provisions of section 308 shall not apply with respect to an order of the Commission under section 307 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders. The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 311. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its permises a notice to be prepared or approved by the Commission setting forth excerpts of the title and such other relevant information which the Commission deems appropriate to effectuate the purposes of the title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

VETERANS' PREFERENCE

SEC 312. Nothing contained in this title shall be construed to repeal or modify any Federal or State law creating special rights or preferences for veterans.

RULES AND REGULATIONS

SEC. 313. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution nor shall any regulation or amendment having the same effect as that concerning which the concurrent resolution was passed be issued thereafter by the Commission.

(b) Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 314. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission, while engaged in the performance of duties under this title, or because of such performance, shall be punished by a fine of not more than $500 or by imprisonment for not more than one year, or both.

TITLE IV—TO PROHIBIT DISCRIMINATION OR SEGREGATION IN THE ARMED SERVICES

SEC. 401. Notwithstanding the provisions of any other law there shall be no discrimination against or segregation of any person in the armed services of the United States, or the units thereof, or the reserve components thereof, by reason of the race, religion, color, or national origin of such person.

TITLE V—TO ELIMINATE SEGREGATION AND DISCRIMINATION IN OPPORTUNITIES FOR HIGHER AND OTHER EDUCATION

SEC. 501. This title may be cited as the "Educational Opportunties Act of 1952".

FINDINGS AND DECLARATION OF POLICY

SEC. 502. The Congress hereby finds and declares that the American idea of equality of opportunity requires that students otherwise qualified be admitted to educational institutions without regard to race, color, religion, or national origin, except that with regard to religious or denominational educational institutions, students otherwise qualified shall have the equal opportunity to attend therein without discrimination because of race, color, or national origin, it being recognized as a fundamental right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to advocate the religious principles in furtherance of which they are maintained and nothing herein contained shall impair or abridge that right.

DEFINITIONS

SEC. 503. As used in this title—

(a) "Educational institution" means any educational institution postsecondary grade subject to the visitation, examination, or inspection by the appropriate State agency supervising education within each State.

(b) "Religious or denominational educational institution" means an educational institution which is operated, supervised, or controlled by a religious or denominational organization and which has certified to the appropriate State commissioner of education, or official performing similar duties, that it is a religious or denominational educational institution.

UNFAIR EDUCATIONAL PRACTICES

SEC. 504. (a) It shall be an unfair educational practice for an educational institution—

(1) to exclude, limit, or otherwise discriminate against any person or persons seeking admission as students to such institution because of race, religion, color, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination, or from giving preference in such selection to such members, or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained; and

(2) to penalize any individual because he has initiated, testified, participated, or assisted in any proceedings under this title.

(b) It should not be an unfair educational practice for any educational institution to use criteria other than race, religion, color, or national origin in the admission of students.

CERTIFICATION OF RELIGIOUS AND DENOMINATIONAL INSTITUTIONS

SEC. 505. An educational institution, operated, supervised, or controlled by a religious or denominational organization may, through its chief executive officer, certify in writing to the Commission of Education (hereinafter referred to as the "Commissioner") that it is so operated, controlled, or supervised and that it elects to be considered a religious or denominational educational institution, and it thereupon shall be deemed such an institution for the purposes of this section.

PROCEDURE

SEC. 506. (a) Any person seeking admission as a student, who claims to be aggrieved by an alleged unfair educational practice (hereinafter referred to as the "petitioner"), may himself, or by his parent, or guardian, make, sign, and file with the Commissioner a verified petition which shall set forth the particulars thereof and contain such other information as may be required by the Commissioner. The Commissioner shall thereupon cause an investigation to be made in connection therewith; and after such investigation if he shall determine that probable cause exists for crediting the allegations of the petition, he shall attempt

by informal methods of persuasion, conciliation, or mediation to induce the elimination of such alleged unfair educational practice.

(b) Where the Commissioner has reason to believe that an applicant or applicants have been discriminated against, except that preferential selection by religious or denominational institutions of students of their own religion or denomination shall not be considered an act of discrimination, he may initiate an investigation on his own motion.

(c) The Commissioner shall not disclose what takes place during such informal efforts at persuasion, conciliation, or mediation, nor shall he offer in evidence in any proceeding the facts adduced in such informal efforts.

(d) A petition pursuant to this section must be filed with the Commissioner within one year after the alleged unfair educational practice was committed.

(e) If such informal methods fail to induce the elimination of an alleged unfair educational practice, the Commissioner shall issue and cause to be served upon such institution, hereinafter called the respondent, a complaint setting forth the alleged unfair educational practice charged and a notice of hearing before the Commissioner, or his designated representative, at a place therein fixed to be held not less than twenty days after the service of said complaint. Any complaint issued pursuant to this section must be issued within two years after the alleged unfair educational practice was committed.

(f) The respondent shall have the right to answer the original and any amended complaint and to appear at such hearing by counsel, present evidence, and examine and cross-examine witnesses.

(g) (1) For the purpose of all investigations, proceedings, or hearings which the Commissioner deems necessary or proper for the exercise of the powers vested in him by this title, the Commissioner, or his designated representative, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commissioner, or his designated representative, conducting such investigation, proceeding, or hearing.

(2) The Commissioner, or the representative designated by the Commissioner for such purposes, may administer oaths, examine witnesses, and receive evidence.

(3) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(4) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court of the United States as constituted by chapter 5, title 28, United States Code (28 U. S. C. 81 and the following), or the United States court of any Territory or other place subject to the jurisdiction of the United States, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commissioner, shall have jurisdiction to issue to such person an order requiring him to appear before the Commissioner, or his designated representative, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(5) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commissioner on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(h) After the hearing is completed the Commissioner shall file an intermediate report which shall contain his findings of fact and conclusions upon the issues in the proceeding. A copy of such report shall be served on the parties to the proceeding. Any such party within twenty days thereafter may file with the Commissioner exceptions to the findings of fact and conclusions, with a brief in support thereof, or may file a brief in support of such findings of fact and conclusions.

(i) If, upon all the evidence, the Commissioner shall determine that the respondent has engaged in an unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served

upon such respondent a copy of such findings and conclusions and an order terminating, at the conclusion of the applicable school year, all programs of Federal air of which such respondent is the beneficiary.

(j) If upon all the evidence, the Commissioner shall find that a respondent has not engaged in any unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served on the petitioner and respondent a copy of such findings and conclusions, and an order dismissing the complaint as to such respondent.

JUDICIAL REVIEW

SEC. 507. (a) Any respondent aggrieved by a final order of the Commissioner may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unfair educational practice in question was alleged to have been engaged in or wherein such respondent is located, by filing in such court a written petition praying that the order of the Commissioner be modified or set aside. A copy of such petition shall be forthwith served upon the Commissioner and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceedring certified by the Commissioner, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commissioner.

(b) Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act; and shall have jurisdiction of the proceeding and of the questions determined therein and shall have the power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commissioner.

(c) No objection that has not been urged before the Commissioner, or his representative, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commissioner, or his representative, the court may order such additional evidence to be taken before the Commissioner, or his representative, and to be made a part of the transcript.

(e) The Commissioner may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(g) The commencement of proceedings under subsection (a) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commissioner's order.

MISCELLANEOUS PROVISIONS

SEC. 508. This title shall take effect at the beginning of the semester or academic year, as the case may be, following its enactment for each educational institution to which it is applicable.

AMENDMENTS TO PUBLIC LAWS 874 AND 815 (EIGHTY-FIRST CONGRESS)

SEC. 509. Section 8 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended, is hereby further amended by adding a new subsection "(e)" to read as follows:

"(e) In carrying out his functions under this Act the Commissioner shall not make any payments or certify for any payments any local educational agency which discriminates among pupils or prospective pupils by reason of their race, religion, color, or national origin or segregates pupils or prospective pupils by virtue thereof."

SEC. 510. The Act of September 23, 1950 (Public Law 815, Eighty-first Congress), as amended, is hereby further amended by inserting in subsection (a) of section 207, after the finding numbered (3) thereof, the following: ", or (4) that there is discrimination or segregation among pupils or prospective pupils by reason of race, religion, color, or national origin".

TITLE VI—MAKING UNLAWFUL THE REQUIREMENT FOR THE PAYMENT OF A POLL TAX AS A PREREQUISITE TO VOTING IN A PRIMARY OR OTHER ELECTION FOR NATIONAL OFFICERS

SEC. 601. This title may be cited as the "Federal Anti-Poll-Tax Act".

SEC. 602. The requirement that a poll tax be paid as a prerequisite to voting or registering to vote at primaries or other elections for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, is not and shall not be deemed a qualification of voters or electors voting or registering to vote at primaries or other elections for said officers, within the meaning of the Constitution, but is and shall be deemed an interference with the manner of holding primaries and other elections for said national officers and a tax upon the right or privilege of voting for said national officers and an impairment of the republican form of government.

SEC. 603. It shall be unlawful for any State, municipality, or other government or governmental subdivision to prevent any person from voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, on the ground that such person has not paid a poll tax, and any such requirement shall be invalid and void insofar as it purports to disqualify any person otherwise qualified to vote in such primary or other election. No State, municipality, or other government or governmental subdivision shall levy a poll tax or any other tax on the right or privilege of voting in such primary or other election, and any such tax shall be invalid and void insofar as it purports to disqualify any person otherwise qualified from voting at such primary or other election.

SEC. 604. It shall be unlawful for any State, municipality, or other government or governmental subdivision to interfere with the manner of selecting persons for national office by requiring the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, and any such requirement shall be invalid and void.

SEC 605 It shall be unlawful for any person, whether or not acting under the cover of authority of the laws of any State, municipality, or other government or governmental subdivision, to require the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives.

SEC 606 For the purposes of this title, the payment, levying, or requirement of a poll tax shall be construed to include any charge of any kind upon the right to vote or to register for voting, in any form or evidence of liability to a poll tax or to any other charge upon the right to vote or to register for voting.

TITLE VII—TO PROHIBIT SEGREGATION AND DISCRIMINATION IN HOUSING BECAUSE OF RACE, RELIGION, COLOR, OR NATIONAL ORIGIN

SEC. 701. Notwithstanding the provisions of any other law—

(1) No home mortgage shall be insured or guaranteed by the United States or any agency thereof, or by any United States Government corporation, unless the mortgagor certifies under oath that in selecting purchasers or tenants for any property covered by the mortgage he will not discriminate against any person or family by reason of race, color, religion, or national origin, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the appropriate authority responsible for such insurance; and

(2) In the administration of the National Housing Act, as amended, the Federal Home Loan Bank Act, as amended, the United States Housing Act of 1937, as amended, the Housing Acts of 1949 and 1950, as amended, the Act en-

titled "An Act to expedite the provision of housing in connection with national defense, and for other purposes", approved October 14, 1940, as amended, and the Servicemen's Readjustment Act of 1944, as amended, it shall be the policy of the United States that there shall be no discrimination affecting any tenant, owner, borrower, or recipient or beneficiary of a mortgage guaranty by reason of race, color, religion, or national origin, or segregation by virtue thereof; nor shall there be any discrimination or segregation by reason of race, color, religion, or national origin in the provision, operation, and maintenance of community facilities or housing under the provisions of the Defense Housing and Community Facilities and Services Act of 1951.

TITLE VIII—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

Establishment of a Commission on Civil Rights in the Executive Branch of the Government

Sec. 801. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

Sec. 802. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

Sec. 803. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize services of voluntary and uncompensated personnel and to pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

(c) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

Reorganization of Civil Rights Activities of the Department of Justice

Sec. 811. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and en-

forcement of civil rights secured by the Constitution and laws of the United States.

SEC. 812. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

CREATION OF A JOINT CONGRESSIONAL COMMITTEE OF CIVIL RIGHTS

SEC 821. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. Not more than four members on the Joint Committee in the Senate and House of Representatives, respectively, shall belong to one political party.

SEC. 822. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 823. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 824. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statues, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures, as, in its discretion, it deems necessary and advisable. The cost of stenographic service to report hearings of the Joint Committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words.

SEC. 825. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 826. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

[H. R. 2835, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1957".

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SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 101. There is created in the executive branch of the Government, a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission.

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 103. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its function and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 111 There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 112 The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

PART 3—CREATION OF A JOINT CONGRESSIONAL COMMITTEE OF CIVIL RIGHTS

SEC. 121. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall, as nearly as may be feasible, reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 122. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 123. Vacancies in the membership of the joint committee shall be filed in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 124 The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of section 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 125. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 126 The joint committee may constitute such advisory committees and may consult with susuch representatives of State and local governments and private organizations as it deems advisable.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chaper 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or cause to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal Law."

SEC. 204. Section 1980 of the Revised Statutes (42 U. S. C. 1985) is amended adding at the end thereof a paragraph designated "Fourth" to read as follows:

"Fourth. The several district courts of the United States are invested with jurisdiction to prevent and restrain acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second and Third, and it shall be the duty of the Attorney General to institute proceedings to prevent and restrain such acts or practices."

PART 2—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The pro-

visions of section 211 and 212 of this part shall also be enforcible by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent or employee thereof, to segregate, or atempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or atempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matters in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 3088, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1957."

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 102. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 103. (a) The Commission shall—

(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 10.. (*a*) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas

for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 105. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catchline of said section to read: "§ 1343. Civil rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

SEC. 131. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended as follows:

(a) Amend the catchline of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other

person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 3481, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1956."

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

(f) The Chairman of the Commission will by the assent of a majority of its members appoint employees of the United States Department of Justice for the organization of Civil Rights Commission Regional Offices in the United States for the purpose of assisting in the objective of the Commission; the number of said employees and offices to be determined by a majority of the Commission members.

RULES OF PROCEDURE

SUBCOMMITTEES, MEETINGS, INVESTIGATIONS, AND REPORTS

SEC. 102. (a) Subcommittees, as required, shall be appointed by the Commission Chairman subject to the approval of the majority of the Commission and shall ordinarily consist of no less than three members. Subcommittees of less than three members may be designated by the Chairman, subject to the approval of the majority of the Commission.

(b) Commission meetings shall be called only upon a minimum of sixteen hours' written notice to the office of each Commission member. This provision may be waived by the assent of the majority of the members of the Commission.

(c) Commission hearings (whether public or in executive session) and Commission investigations shall be scheduled and conducted only upon the majority vote of the Commission in a meeting at which a majority of the Commission is actually present.

(d) A resolution or motion scheduling hearings or ordering a particular investigation shall state clearly and with particularity the subject thereof, which resolution may be amended only upon majority vote of the Commission in a meeting at which a majority of the Commission is actually present.

(e) The Chairman or a member shall consult with appropriate Federal law enforcement agencies with respect to any phase of an investigation which may result in evidence exposing the commission of Federal crimes, and the results of such consultation shall be reported to the Commission before witnesses are called to testify therein.

(f) No Commission report shall be issued unless a draft of such report is submitted to the office of each Commission member twenty-four hours in advance of the meeting at which it is to be considered and is adopted at a meeting at which a majority is actually present.

(g) No testimony given in executive session or part or summary thereof shall be released or disclosed orally or in writing by a member or employee of the Commission without the authorization of the Commission by majority vote at a meeting at which a majority of members is present. No Commission or staff report or news release or statement based upon evidence or testimony adversely affecting a person shall be released or disclosed by the Commission or any member orally or in writing unless such evidence or testimony and the complete evidence or testimony offered in rebuttal thereto, if any, is published prior to or simultaneously with the issuance of the report, or news release, or statement.

(h) The rule as to the secrecy of executive sessions as set forth in subsection (g) of this section shall be applicable to members and employees of the Commission for a reasonable period following an executive session until the Commission had had a reasonable time to conclude the pertinent investigation and hearings and to issue a report; subject, however, to any decision by a Commission majority for prior release in the manner set forth in subsection (g).

HEARINGS

(i) Witnesses at Commission hearings (whether public or in executive session) shall have the right to be accompanied by counsel, of their own choosing, who shall have the right to advise witnesses of their rights and to make brief objections to the relevancy of questions and to procedure.

(j) Rulings on motions or objections shall be made by the member presiding, subject to appeals to the members present on motion of a member.

(k) At least twenty-four hours prior to his testifying a witness shall be given a copy of that portion of the motion or resolution scheduling the hearing stating the subject of the hearing; at the same time he shall be given a statement of the subject matters about which he is to be interrogated.

(l) It shall be the policy of the Commission that only evidence and testimony which is reliable and of probative value shall be received and considered by the Commission. The privileged character of communication between clergymen and parishioner, doctor and patient, lawyer and client, and husband and wife shall be scrupulously observed.

(m) No testimony shall be taken in executive session unless at least two members of the Commission are present.

(n) Every witness shall have the right to make complete and brief answers to questions and to make concise explanations of such answers.

(o) Every witness who testifies in a hearing shall have a right to make an oral statement and to file a sworn statement which shall be made a part of the transcript of such hearings, but such oral or written statement shall be relevant to the subject of the hearings.

(p) A stenographic verbatim transcript shall be made of all Commission hearings. Copies of such transcript, so far as practicable, shall be available for inspection or purchase at regularly prescribed rates from the official reporter by any witness or person mentioned in a public hearing. Any witness and his counsel shall have the right to inspect only the complete transcript of his own testimony in executive session.

RIGHTS OF PERSONS ADVERSELY AFFECTED BY TESTIMONY

(q) A person shall be considered to be adversely affected by evidence or testimony of a witness if the Commission determines that: (i) the evidence or testimony would constitute libel or slander if not presented before the Commission or (ii) the evidence or testimony alleges crime or misconduct or tends to disgrace or otherwise to expose the person to public contempt, hatred, or scorn.

(r) Insofar as practicable, any person whose activities are the subject of investigation by the Commission, or about whom adverse information is proposed to be presented at a public hearing of the Commission, shall be fully advised by the Commission as to the matters into which the Commission proposes to inquire and the adverse material which is proposed to be presented. Insofar as practicable, all material reflecting adversely on the character or reputation of any individual which is proposed to be presented at a public hearing of the Commission shall be first reviewed in executive session to determine its reliability and probative value and shall not be presented at a public hearing except pursuant to majority vote of the Commission.

(s) If a person is adversely affected by evidence or testimony given in a public hearing, that person shall have the right: (i) to appear and testify or file a sworn statement in his own behalf, (ii) to have the adverse witness recalled upon application made within thirty days after introduction of such evidence or determination of the adverse witness' testimony, (iii) to be represented by counsel as heretofore provided, (iv) to cross-examine (in person or by counsel) such adverse witness, and (v) subject to the discretion of the Commission, to obtain the issuance by the Commission of subpenas for witnesses, documents, and other evidence in his defense. Such opportunity for rebuttal shall be afforded promptly and, so far as practicable, such hearing shall be conducted at the same place and under the same circumstances as the hearing at which adverse testimony was presented.

Cross-examination shall be limited to one hour for each witness, unless the Commission by majority vote extends the time for each witness or group of witnesses.

(t) If a person is adversely affected by evidence or testimony given in executive session or by material in the Commission files or records, and if public release of such evidence, testimony, or material is contemplated, such person shall have, prior to the public release of such evidence or testimony or material or any disclosure of or comment upon it by members of the Commission or Commission staff or taking of similar evidence or testimony in a public hearing, the rights heretofore conferred and the right to inspect at least as much of the evidence or testimony of the adverse witness or material as will be made public or the subject of a public hearing.

(u) Any witness (except a member of the press who testifies in his professional capacity) who gives testimony before the Commission in an open hearing which reflects adversely on the character or reputation of another person may be required by the Commission to disclose his sources of information, unless to do so would endanger the national security.

SUBPENAS

(v) Subpenas shall be issued by the Chairman of the Commission only upon written notice to all members of the Commission, with a statement as to the identity of the witness or material and their relevancy to the investigation or hearing already authorized. Upon the request of any member of the Commission, the question of whether a subpena shall be issued or remain in force if already issued shall be decided by a majority vote.

COMMISSION STAFF

(w) The composition and selection of, and changes in, the professional and clerical staff of the Commission shall be subject to the vote of a majority of the members of the Commission.

TELEVISION AND OTHER MEANS OF COMMUNICATION AND REPORTING

(x) Subject to the physical limitations of the hearing room and consideration of the physical comfort of Commission members, staff, and witnesses, equal access for coverage of the hearings shall be provided to the various means of communication, including newspapers, magazines, radio, newsreels, and television. It shall be the duty of the Commission Chairman to see that the various communication devices and instruments do not unreasonably distract, harass, or confuse the witness or interfere with his presentation.

(y) No witness shall be televised, filmed, or photographed during the hearing if he objects on the ground of distraction, harassment, or physical handicap.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 104. (a) The Commission shall—

(1) investigate allegations in writing that certain citizens of the United States are being deprived of their right to vote or that certain persons in the United States are voting illegally or are being subjected to unwarranted economic pressures by reason of their sex, color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations, the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 105. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a) but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission, or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or such subcommittee, and may be served by any person designated by such Chairman: *Provided*, That notwithstanding anything to the contrary in this Act contained, the Commission shall not constitute or appoint any subcommittee of less than two members, one member to be from each political party affiliation.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the

District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 106. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ASSISTANT ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read,

"§ 1343. Civil rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

SEC. 131. Section 2004 of the Revised Statutes (42 U. S. C. 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presi-

dential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 3613, 85th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 2. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R 3616, 85th Cong., 1st sess]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act".

PURPOSES

SEC. 2. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the system of public criminal justice therein and threatening to frustrate the function thereof through duly constituted officials.

RIGHT TO BE FREE OF LYNCHING

SEC. 3. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 4. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession, or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 5. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both: *Provided, however*, That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000 or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 6. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 7. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 8. The crime defined in and punishbale under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202) shall include knowingly transporting in interstate or foreign commerce any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 9. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damages against—

(1) any person who violates sections 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defenant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) And judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3617, 85th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"§ 594. Intimidation of voters

"Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House

of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote, and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 3. (a) Any person violating the provisions of section 594 of title 18 of the United States Code (whether or not such person has been convicted of such violation) shall be subject to suit for damages by the party injured, or by his estate.

(b) Upon a showing that any person is violating (whether or not such person has been convicted of such violation) or is threatening to violate section 594 of title 18 of the United States Code, or is depriving or threatening to deprive an inhabitant of any State or Territory of the right to qualify to vote and to vote as set forth in section 2004 of the Revised Statutes, the party injured or threatened to be injured by such violation or threatened violation, or by such deprivation or threatened deprivation, or the Attorney General of the United States, in the name of the United States but for the benefit of such party, may commence and maintain an action for preventive, mandatory, or declaratory relief to prohibit or prevent such injury or threatened injury.

(c) The district courts of the United States shall have jurisdiction of proceedings brought pursuant to subsections (a) and (b) and shall exercise such jurisdiction without regard to whether the party aggrieved shall have exhausted any administrative or other remedies provided by law and without regard to the amount of the matter in controversy. The term "district courts of the United States" means any district court as constituted by chapter 5 of title 28 of the United States Code and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H R 3618, 85th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the Executive Branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1957".

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, ot the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The commission shall be composed of five members who shall be appointed by the President, by

and with the advice and consent of the Senate. Not more than three members of the Commission shall be members of the same political party. In appointing the members of the Commission, the President is requested to provide, insofar as possible, representation for the various geographic areas of the United States. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

SEC. 4. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress, legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

(c) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

SEC. 6. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 3793, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1957".

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SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 101. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission.

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 103. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its function and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 111. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 112. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions to be approved by the Attorney General, in the investigation of civil-rights cases.

PART 3—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 121. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the Joint Committee shall as

nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 122. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 123. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 124. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 125. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 126 The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy.

The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Section 1980 of the Revised Statutes (42 U. S. C. 1985) is amended by adding at the end thereof a paragraph designated "Fourth" to read as follows:

"Fourth. The several district courts of the United States are invested with jurisdiction to prevent and restrain acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, and Third, and it shall be the duty of the Attorney General to institute proceedings to prevent and restrain such acts or practices."

PART 2—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1879

of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC 221 (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United State Code (28 U S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R 3945, 85th Cong., 1st sess.]

A BILL To protect the civil rights of individuals by establishing a Commission on Civil Rights in the Executive branch of the Government, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1957".

TITLE I—COMMISSION ON CIVIL RIGHTS

SEC. 101. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adquate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 102. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 103. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the polices, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 104. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 105. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the

Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

TITLE II—CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

SEC. 201. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 202. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC 301 There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302 It shall be the function of the joint committee to make a continuing study of matters relating to civil rights including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States: to study means of improving respect for and enforcement of civil rights: and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC 305 Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman

SEC. 306 The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 401. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens.

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any direct court of the United States as constituted by chapter 5 of title 28, United States Code (28 U S C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of rights, privileges, and immunities

"The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 404 If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LAWS PROTECTING RIGHT TO POLITICAL PARTICIPATION

SEC. 501. Title 18, United States Code, section 594, is amended to read as follows:

"§594. Intimidation of voters

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

SEC. 502. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 503 In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section and of section 2004 of the Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 504. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE VI—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 601. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent,

shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 602. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 603. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

TITLE VII—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 701. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceedings for damages or preventive or declaratory or other relief. Such suit or proceding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 702. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminates against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall upon, conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action of law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 3946, 85th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year or both."

SEC. 2. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows·

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C 43), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3951, 85th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 3955, 85th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1955".

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the mmebers of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 4. It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil right; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights: to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 6. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof

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[H R 3956, 85th Cong., 1st sess.]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H R. 3957, 85th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the 'Federal Antilynching Act".

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion in accordance with the treaty obligations assumed by the United States under the United Nation Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter, and the law of nations. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States

DEFINITIONS

SEC. 5. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee, or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Coumbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both: *Provided, however*, That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fine dnot more than $10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 9. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202), shall include knowingly transporting in interstate or foreign commerce any person unlawfully abducted and held because of his race, color, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10. (a) Any person, or in the event of his death the next of kin of any person, who as a result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3959, 85th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any

right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2 Title 18, United State Code, section 242, is amended to read as follows:

"SEC 242. Whoever, under color of any law, statute, ordinance, regulation or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivation of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H R 4121, 85th Cong, 1st sess]

A BILL To provide for an additional Assistant Attorney General; to establish a bipartisan Commission on Civil Rights in the executive branch of the Government; to provide means of further securing and protecting the right to vote; to strengthen the civil right statutes; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 102. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 103. (a) The Commission shall—

(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 104. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a), but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas

for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 105. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ATTORNEY GENERAL

SEC. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHT STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth. Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC. 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catch line of said section to read:

"§ 1343. Civil rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

Section 2004 of the Revised Statutes (42 U. S. C. 1971), is amended as follows:

(a) Amend the catch line of said section to read, "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any

other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 4126, 85th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act".

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner that will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasancy of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoy-

ment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter and the law of nations. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC 5. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee", as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States

PUNISHMENT FOR LYNCHING

SEC. 6 Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigate, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall,

upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both: *Provided, however,* That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000, or imprisoned not more than twenty years, or both A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 9. The crime defined in and punishable under chapter 55 of title 18 United States Code, shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTION FOR DAMAGES

SEC. 10 (a) Any person, or in the event of his death, the next of kin of any person, who as the result of a lynching suffers death, or physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 4269, 85th Cong., 1st sess.]

A BILL To provide for an additional Assistant Attorney General; to establish a bipartisan Commission on Civil Rights in the executive branch of the Government; to provide means of further securing and protecting the right to vote, to strengthen the civil rights statutes; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

SEC. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 102. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $50 per day for each day spent in the work of the Commission, shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition

to that received for such other service, but while engaged in the work of the Commission shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence, inclusive of fees or tips to porters and stewards.

DUTIES OF THE COMMISSION

SEC. 103. (a) The Commission shall—

(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin;

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

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

(b) The Commission shall submit interim reports to the President at such times as either the Commission or the President shall deem desirable, and shall submit to the President a final and comprehensive report of its activities, findings, and recommendations not later than two years from the date of the enactment of this statute.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

POWERS OF THE COMMISSION

SEC. 104. (a) Within the limitations of its appropriations, the Commission may appoint a full-time staff director and such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U. S. C. 55a), but at rates for individuals not in excess of $50 per diem.

(b) The Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $12).

(c) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable.

(d) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(e) The Commission, or on the authorization of the Commission any subcommittee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable Subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

(f) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

APPROPRIATIONS

SEC. 105. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

PART II—TO PROVIDE FOR AN ADDITIONAL ATTORNEY GENERAL

SEC. 111 There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES, AND FOR OTHER PURPOSES

SEC. 121. Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "Fourth" and "Fifth" and to read as follows:

"Fourth Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second, or Third, the Attorney General may institute for the United States, or in the name ofthe United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Fifth The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

SEC 122. Section 1343 of title 28, United States Code, is amended as follows:

(a) Amend the catchline of said section to read.

"§ 1343 Civil rights and elective franchise"

(b) Delete the period at the end of paragraph (3) and insert in lieu thereof a semicolon.

(c) Add a paragraph as follows:

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

Section 2004 of the Revised Statutes (42 U. S C 1971) is amended as follows:

(a) Amend the catchline of said section to read. "Voting rights".

(b) Designate its present text with the subsection symbol "(a)".

(c) Add, immediately following the present text, three new subsections to read as follows:

"(b) No person, whether acting under color or law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote, for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person

"(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

[H. R. 4420, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1957".

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SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC 101 There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 103. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its function and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 111. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC 112. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

PART 3—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC 121. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the Joint Committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 122. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 123 Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 124 The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the productions of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 125 Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 126. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201 Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any persons goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Section 1980 of the Revised Statutes (42 U. S. C. 1985) is amended by adding at the end thereof a paragraph designated "Fourth" to read as follows:

"Fourth. The several district courts of the United States are invested with jurisdiction to prevent and restrain acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second and Third, and it shall be the duty of the Attorney General to institute proceedings to prevent and restrain such acts or practices."

PART 2—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594 Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The pro-

visions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 4496, 85th Cong., 1st sess.]

A BILL To promote further respect for and observance of civil rights within the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles according to the following table of contents, may be cited as the "Civil Rights Act of 1955".

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TITLE I—CIVIL RIGHTS COMMISSION

SEC. 101. (a) There is hereby established a Civil Rights Commission (referred to in this title as the "Commission"), which shall be composed of three members appointed by the President, by and with the advice and consent of the Senate.

(b) The term of office of each member of the Commission shall be three years, except that the terms of the members first taking office shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, and one at the end of three years after the date of enactment of this Act, and any member appointed to fill a vacancy ocurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(c) The Commission shall elect a Chairman from among its members.

(d) Each member of the Commission shall be compensated at the rate of $50 for each day he is engaged in the business of the Commission, and shall be allowed travel expenses as authorized by the Travel Expense Act of 1949.

SEC. 102. The Commission shall conduct a continuing study and investigation of the policies, practices, and enforcement program of the Federal Government with respect to civil rights, and of the progress made throughout the Nation in promoting respect for and observance of civil rights. Each year the Commission shall report its findings and recommendations to the Congress.

TITLE II—PROHIBITION AGAINST POLL TAX

SEC. 201. The requirement that a poll tax be paid as a prerequisite to voting or registering to vote, in any primary or other election, for the selection of a President, a Vice President, electors for President and Vice President, or of a United States Senator or a Representative in the Congress of the United States, is not and shall not be deemed a qualification of voters or electors to vote or to register to vote at primaries or other elections for any of such officers.

SEC. 202. It shall be unlawful for any State, municipality, or other government or governmental subdivision to levy a poll tax or any other tax on the right or privilege of voting, in any primary or other election, for the selection of any of the officers referred to in section 201; or to deny any person the right or privilege of voting or registering to vote in any such primary or other election on the ground that such person has not paid a poll tax.

SEC. 203. It shall be unlawful for any State, municipality, or other government or governmental subdivision, or for any person, whether or not acting under cover of the law of any State or subdivision thereof, to impose upon any person a requirement that a poll tax be paid as a prerequisite to the right or privilege of voting or registering to vote, in any primary or other election, for the selection of persons for national office.

TITLE III—PROTECTION FROM MOB VIOLENCE AND LYNCHING

DEFINITIONS

SEC. 301. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by physical violence against the person, any power or correction or punishment

over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this title. Any such violence by a lynch mob shall constitute lynching within the meaning of this article.

PUNISHMENT FOR LYNCHING

SEC. 302. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 303. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 304. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to aprpehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title.

KIDNAPING PENALTIES MADE APPLICABLE

SEC. 305. The crime defined in and punishable under section 1201 of title 18 of the United States Code shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

TITLE IV—EQUALITY OF OPPORTUNITY IN EMPLOYMENT

FINDINGS AND DECLARATION OF POLICY

SEC. 401. (a) The Congress hereby finds that, despite the continuing progress of our Nation, the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for

production, endangers the national security and the general welfare, and adverse'y affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:

(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

(2) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States

(3) To advance toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

DEFINITIONS

SEC. 402. As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, if no part of the net earnings inures to the benefit of any private shareholder or individual, other than a labor organization.

(c) The term "employment agency" means any person undertaking with or without compensation to procure employees or opportunities to work for an employer; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, if no part of the net earnings inures to the benefit of any private shareholder or individual.

(d) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose in whole or in part, of collective bargaining or of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(e) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, possession, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory or possession; or between points in the same State, the District of Columbia or any Territory or possession but through any point outside thereof.

(f) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(g) The term "Commission" means the Equality of Opportunity in Employment Commission, created by section 405.

EXEMPTION

SEC. 403. This title shall not apply to any employer with respect to the employment of aliens outside the continental United States, its Territories and possessions.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 404. (a) It shall be an unlawful employment practice for an employer—

(1) to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privi-

leges of employment, because of such individual's race, religion, color, national origin, or ancestry.

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to properly classify or refer for employment, or otherwise to discriminate against any individual because of his race, color, religion, national origin or ancestry.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual or any employer because of the race, color, religion, national origin or ancestry of any individual;

(2) to cause or attempt to force an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, employment agency or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE EQUALITY OF OPPORTUNITY IN EMPLOYMENT COMMISSION

SEC. 405. (a) There is hereby created a Commission to be known as the Equality of Opportunity in Employment Commission, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noted.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $15,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent, other than a member of the Commission, designated to conduct a proceeding or a hearing shall be a resident of the judicial circuit, as defined in title 28, United States Code, chapter 3, section 41, within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint, in accordance with the Civil Service Act, rules, and regulations, such officers, agents, and employees, as it deems necessary to assist it in the performance of its functions, and to fix their compensation in accordance with the Classification Act of 1949, as amended; attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court;

(2) to cooperate with and utilize regional, State, local, and other agencies;

(3) to furnish to persons subject to this title such technical assistance as

they may request to further their compliance with this title, or any order issued thereunder;

(4) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(6) to create such local, State, or regional advisory and conciliation councils as in its judgement will aid in effectuating the purpose of this title, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances Such advisory and conciliation councils shall be composed of representative citizens resident of the area for which they are appointed, who shall serve without compensation, but shall receive transportation and per diem in lieu of subsistence as authorized by section 5 of the Act of August 2, 1946 (5 U. S. C. 73b–2), for persons serving without compensations; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance: the Commission may, to the extent it deems it necesary, provide by regulation for exemption of such persons from the operation of title 18 United States Code, sections 281, 283, 284, 434, and 1914, and section 190 of the Revised Statutes (5 U S C 99); such regulation may be issued without prior notice and hearing.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 406. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 404. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise: *Provided*, That an agreement between or among an employer or employers and a labor organization or labor organizations pertaining to discrimination in employment shall be enforceable in accordance with applicable law, but nothing contained therein shall be construed or permitted to foreclose the jurisdiction over any practice or occurrence granted the Commission by this title: *Provided further*, That the Commission is empowered by agreement with any agency of any State, Territory, possession, or local government, to cede, upon such terms and conditions as may be agreed, to such agency jurisdiction over any cases or class of cases, if such agency, in the judgement of the Commission, has effective power to eliminate and prohibit discrimination in employment in such cases.

(b) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to this title has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion.

(c) If the Commission fails to effect the elimination of such unlawful practice and to obtain voluntary compliance with this title or in advance thereof if circumstances warrant, the Commission shall have power to issue and cause to be served upon any person charged with the commission of an unlawful employment practice (hereinafter called the "respondent") a complaint stating the charges in that respect, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such complaint. No complaint shall issue based upon any unlawful employment practice occurring more than one year prior to the filing of the charge with the Commission and the service of a copy thereof upon the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces,

in which event the period of military service shall not be included in computing the one-year period.

(d) The respondent shall have the right to file a verified answer to such complaint and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(e) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend its answer.

(f) All testimony shall be taken under oath.

(g) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(h) At the conclusion of a hearing before a member or designated agent of the Commission, such member or agent shall transfer the entire record thereof to the Commission, together with his recommended decision and copies thereof shall be served upon the parties. The Commission, or a panel of three qualified members designated by it to sit and act as the Commission in such case, shall efford the parties an opportunity to be heard on such record at a time and place to be specified upon reasonable notice. In its discretion, the Commission upon notice may take further testimony.

(i) With the approval of the member or designated agent conducting the hearing, a case may be ended at any time prior to the transfer of the record thereof to the Commission by agreement between the parties for the elimination of the alleged unlawful employment practice on mutually satisfactory terms.

(j) If, upon the preponderance of the evidence, including all the testimony taken, the Commission shall find that the respondent engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person and other parties an order requiring such person to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the discrimination), as will effectuate the policies of this title: *Provided*, That interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. Such order may further require such respondent to make reports from time to time showing the extent to which it has complied with the order. If the Commission shall find that the respondent has not engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person and other parties an order dismissing the complaint.

(k) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the case may at any time be ended by agreement between the parties, approved by the Commission, for the elimination of the alleged unlawful employment practice on mutually satisfactory terms, and the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(l) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, 8, and 11 of the Administrative Procedure Act.

JUDICIAL REVIEW

SEC. 407. (a) The Commission shall have power to petition any United States court of appeals or, if the court of appeals to which application might be made is in vacation, any district court within any circuit or district, respectively, wherein the unlawful employment practice in question occurred, or wherein the respondent resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(b) Upon such filing the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter

upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) The findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(e) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent and to be made a part of the transcript.

(f) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order.

(g) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(h) Any person aggrieved by a final order of the Commission may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person resides or transacts business or the Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsections (a), (b), (c), (d), (e), and (f), and shall have the same exclusive jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(i) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(j) The commencement of proceedings under this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(k) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order of the Commission, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (U. S. C., title 29, secs. 101–115).

(l) Petitions filed under this title shall be heard expeditiously.

INVESTIGATORY POWERS

SEC. 408. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(c) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(d) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(e) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(f) Complaints, orders, and other process and papers of the Commission, its member, agent, or agency, may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post-office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Commission, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(g) All process of any court to which application may be made under this title may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

(h) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any matter before the Commission.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES AND CONTRACTORS

SEC. 409. (a) The President is authorized to take such action as may be necessary (1) to conform fair employment practices within the Federal establishment with the policies of this title, and (2) to provide that any Federal employee aggrieved by any employment practice of his employer must exhaust the administrative remedies prescribed by Executive order or regulations governing fair employment practices within the Federal establishment prior to seeking relief under the provisions of this title. The provision of section 407 shall not apply with respect to an order of the Commission under section 406 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or of the District of Columbia, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders.

(b) The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 410 (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted, a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

VETERANS' PREFERENCE

SEC. 411. Nothing contained in this title shall be construed to repeal or modify any Federal, State, Territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

SEC 412. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or recission, such disapproved regulation, amendment, or recission shall not be effective after the date of the passage of such concurrent resolution.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 413. The provisions of section 11, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

EFFECTIVE DATE

SEC. 414 This title shall become effective sixty days after enactment, except that subsections 406 (c) to (1), inclusive, and section 407 shall become effective six months after enactment.

[H. R. 4782, 85th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1957."

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SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights

of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 101. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission") The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission.

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals

and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 103. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its function and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 111. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 112. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

PART 3—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 121. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the Joint Committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 122. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 123. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 124. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 125. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 126. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Section 1980 of the Revised Statutes (42 U. S. C. 1985) is amended by adding at the end thereof a paragraph designated "Fourth" to read as follows:

"Fourth. The several district courts of the United States are invested with jurisdiction to prevent and restrain acts or practices which would give rise to a cause of action pursuant to paragraphs First, Second and Third, and it shall be the duty of the Attorney General to institute proceedings to prevent and restrain such acts or practices."

PART 2—PROTECTION OF RIGHTS TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting, or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212 Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3.—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 211 (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and

shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceedings for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

The CHAIRMAN. It is the purpose of the Chair to be as fair and judicious as possible in hearing the many witnesses who have signified their intention to present their views. Lengthy hearings have been held during the 84th Congress on various civil-rights bills, most of which are identical with and not unlike the bills now before us.

It is the purpose of the Chair to encourage the expression of views and opinions on this vexatious subject which have not heretofore been made manifest by witnesses. Those, therefore, who intend to testify along the same lines as testimony given before Subcommittee No. 2 of this committee in the last Congress should file their statement without oral expression thereof. It is the intention of the Chair not to clutter the record with repetitious statements.

We are anxious to hear and learn of new data, views, and opinions. In this respect the Chair will be firm but not unbending. The Chair will apply a rule of reason. It is hoped to expend 4 full days on these hearings, with the time to be divided as equally as humanly possible among the contenders. Of course, leeway will have to be acceded to, depending upon the circumstances. But one thing is certain, namely, that these hearings cannot go on indefinitely. At the close of the hearing, the record will remain open for 1 week for the presentation of impressions and opinions.

The Chair requests the indulgence and patience of his colleagues on the subcommittee and also of the witnesses who appear before us.

This is a very explosive subject that gives rise to charged excitement and high-voltage attitudes. It is hoped, therefore, that calmness and deliberation will descend on all parties to the controversy.

If ever a time called for the harsh necessity of accommodating one's thinking to changing patterns of life, this is it. It has been often stated that it takes a catastrophe to move people forward vigorously and decisively to meet the inevitable. Wars and revolutions have followed in nation after nation in the useless effort to stem the tide of history. We ourselves fought two wars before we recognized the inevitability of collective security and the interdependence of nations.

We finally realized that we could not be an island unto ourselves. And, so, just as we cannot hold back the hands of history, so we cannot hold back the idea that one color is as good as another; that all men are created equal. We can no longer contend that there is an aristocracy of color; the principle of equality, economically, culturally, and spiritually, has become a standard of definition in these United States.

I know how difficult it is to lay aside the concepts of past thinking on the subject of these civil rights and the standard of definition. I am aware how passionately certain convictions on this subject are held in the southern region of our country. I know that in some sections the events that have followed the Supreme Court decision seemed to have exacerbated bitterness rather than ameliorating it. Nevertheless, this great change is inevitable. Although cruel antagonism may still subsist, I hope in time it will grow less acute and die down, just as echoes fade away. This is to be remembered: that the same result will emerge that could have emerged without the bitterness and hatred that has been and is being engendered.

I realize that the earth-shaking changes cannot come in a trice. It would be impossible to ask for a sudden overnight mass migration of Negroes into white schools, but it is reasonable to expect that a forthright and honest beginning must be made. Certainly, the Supreme Court decision, which is the law of the land, spoke of "deliberate speed." That must be accepted as the law of our land and be binding as such on all of us. The old shibboleth of "separate but equal" has been negated by the Supreme Court. We in Congress must provide the leadership in this great change. Painful as it may be, and understandably so to many of those who will appear as opponents to this legislation, it is sometimes better to face the pain of an operation than to dodge present suffering only to meet it later in the body poison.

There may be other members who would like to make a preliminary statement. If there are no other preliminary statements, we will now hear from the distinguished Attorney General of the United States, the Honorable Herbert Brownell.

The Chair wishes to announce also that subsequent to the testimony of Mr. Brownell, we will hear from our distinguished minority ranking member, the Honorable Kenneth B. Keating of New York, and another member of our committee desires to be heard, Hon. Patrick J. Hillings, distinguished Representative from the State of California. Both of these men have had bills before us.

Accompanying Mr. Brownell, I understand, is Mr. Olney, the Assistant Attorney General.

In the afternoon we will hear from the following distinguished members of the House, Hon. James Roosevelt, Hon. John F. Baldwin, Jr., and Hon. John D. Dingell. We have received many statements to be inserted in the record. One is from Mr. Mike M. Masaoka, Washington representative of the Japanese American Citizens League.

Mr. KEATING. Mr. Chairman, perhaps we should advise the distinguished Attorney General and others that we are making as part of this record the rather extensive hearings that were held in the last Congress.

The CHAIRMAN. Yes, the hearings that were held in the last Congress on civil rights on July 13, 14, and 27, 1955, and April 10, 1956.

(The document follows:)

CIVIL RIGHTS

HEARINGS

BEFORE

SUBCOMMITTEE NO. 2

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 389, 3688, 51, 702, 259, 3304, 3480, 3563, 3575, 3578, 5345, 3387, 3421, 3474, 3566, 3580, 5349, 258, 3388, 3422, 3475, 3568, 3579, 5351, 627, 3389, 3423, 3472, 3562, 3585, 5348, 3390, 3419, 3476, 3569, 3582, 5343, 3391, 3478, 3571, 3583, 3418, 5350, 628, 3394, 3420, 3481, 3567, 3581, 5344, and 5503

MISCELLANEOUS BILLS REGARDING THE CIVIL RIGHTS OF PERSONS WITHIN THE JURISDICTION OF THE UNITED STATES

JULY 13, 14, AND 27, 1955

Printed for the use of the Committee on the Judiciary

Serial No. 11

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CIVIL RIGHTS

WEDNESDAY, JULY 13, 1955

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 2 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 10 a. m., Hon. Thomas J. Lane (chairman) presiding.

Mr. LANE. The committee will please come to order.

Today we begin hearings on civil-rights bills. A great deal of interest has been shown in this legislation. It is our purpose to afford all interested persons the opportunity to present their views. Our plan is to hold hearings today and tomorrow and again on Wednesday, July 27.

Today we are to hear the authors of these various bills. The interested executive departments have been invited to appear and testify tomorrow. On Wednesday, July 27, further testimony will be taken from other interested parties.

Most of you know there has been a great deal of interest in this kind of legislation before the subcommittee. Normally we do not program legislation for hearings until reports from the executive departments and independent agencies have been received. Most of the reports are not yet in on these bills. And, by the way, there are 51 bills being considered by the committee. However, in order to accommodate those who have exhibited a great deal of interest in these bills, we have decided to begin public hearings on them in this session.

In addition to the lack of departmental reports on these various bills, the heavy workload of this subcommittee, and the work load on the full Judiciary Committee has militated against any earlier consideration of these bills. Thus far, this session, this subcommittee has held hearings and taken action on at least 245 pieces of legislation. These include the claim of some $60 million growing out of the Texas City disaster and various other important claims bills. It has been found necessary to meet not only on our regular Wednesday meeting day but we have often been forced to meet two and three, and more, times per week. And, in addition, the full Judiciary Committee has been extremely active. We are honored in having the chairman of the full Judiciary Committee here this morning to be our first witness.

About half of the bills introduced in the House are referred to this Judiciary Committee. I have no doubt we are in a position to carefully consider all bills which are referred to us. My point is that the heavy workload militates against programing legislation before completing the staff work, and before receiving departmental reports.

The bills we are considering today cover many aspects of Federal protection of civil rights. Among the proposals to be considered are the following: The creation of Fair Employment Practice Commission to eliminate racial and other discriminations in employment, prohibitions against racial and other discriminations in federally supported housing, federally supported education, interstate transportation, and the armed services, prohibition on interference with the right to vote and other rights, privileges and immunities secured by the Constitution or laws of the Unted States, and antilynching, antipoll tax, and antipeonage legislation.

Other bills would create a joint congressional committee on civil rights and establish a Federal commission to gather information concerning the protection of civil rights in the United States and report annually to the President. In addition there are proposals to reorganize the Department of Justice by providing an additional Assistant Attorney General to head a civil-rights division and to authorize additional FBI personnel to enforce civil-rights legislation.

Now, for the first witness we have before us this morning, and of course it gives us a great honor and a high privilege, to have him as a witness because he is the chairman of our full committee. I know of no other chairman of any committee in the Congress who works harder and longer than does the chairman of our Judiciary Committee. Of course, we are pleased and we are happy to have him; we always welcome his presence and are glad to have his recommendations or any suggestions that he may have for the committee. As our first witness I give you Congressman Emanuel Celler.

At this point, the civil rights bills will be inserted in the record.

(The bills referred to follow:)

[H. R. 389, 84th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1955."

TABLE OF CONTENTS

SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States have long been and still are being denied, abridged, or threatened by the conduct of both Government officials and private persons, and particularly by the nonfeasance and misfeasance of public officials in many States in failing to protect the civil rights of Negro inhabitants, and that such infringements upon the American principle

of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life.

(b) The Congress therefore declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution against interference by the conduct of both Government officials and private persons, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote and enforce universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 101. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil

rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil rights matter.

SEC. 103. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize services of voluntary and uncompensated personnel and to pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at the rate not in excess of $10.)

(c) Within the limitations of its appropriations, the Commission shall appoint a full-time staff director and such other full-time personnel as is necessary to its proper functioning, to secure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 111. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States. The Civil Rights Division shall have attached to it, and under its direction, an investigating staff whose function it shall be to investigate all civil-rights cases under applicable Federal law.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both, or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) The rights, privileges, and immunities referred to in this section shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial wherein the charged person or persons shall be represented by counsel and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, national origin or ancestry.

"(6) The right to vote as protected by Federal law.

"(d) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his race, color, religion, national origin or ancestry, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The rights, privileges, and immunities referred to in section 241c, title 18, United States Code.

"(2) The right to secure and engage in any employment, to conduct business, commerce or professional activities, to be entitled to attend school, to utilize public accommodations, to secure, own and live in a home or apartment and otherwise to the full opportunity and freedom to engage in all lawful, social, commercial, educational, political, and entertaining activities without discrimination by reason of race, color, religion, national origin or ancestry."

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or whoever entices, persuades, or induces, or attempts to entice, persuade, or induce any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both."

PART 2—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. (a) Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to qualify to vote, to vote, or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegates or Commissioners

from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more that $1,000 or imprisoned not more than one year, or both.

"(b) Whoever, because of the race, color, religion, national origin, or ancestry of any other person, intimidates, threatens, coerces, or attempts to intimidate, threaten or coerce such person for the purpose of interfering with the right of such other person to qualify to vote, to vote, or to vote as he may choose at any general, special, or primary election of the people conducted in or by any State, Territory, district, county, city, parish, township school district, municipality or other territorial subdivision, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"(a) All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other territorial subdivision, without distinction, direct or indirect, based on race, color, religion, national origin or ancestry; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law.

"(b) The right of all citizens of the United States, eligible by law, to qualify to vote, to vote, and to vote as they may choose at any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegates or Commissioners from the Territories and possessions shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, action for mandamus, or other proper proceeding for damages or preventive or mandatory or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, national origin or ancestry.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, national origin, or ancestry or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each

offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.) or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, national origin or ancestry of such passengers. Any such carrier or officer, agent or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminates against them on account of race, color, religion, national origin or ancestry shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be bought in any District court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

PART 4—PROTECTION OF PERSONS FROM LYNCHING

SEC. 231. It is hereby declared that the right to be free from lynching is a right of all persons within the jurisdiction of the United States. Such right is in addition to any similar rights they may have as citizens of any of the several States or as persons within their jurisdiction.

SEC. 232. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon any person or persons or on his or their property directly or indirectly because of, or wholly or in part because of his or their race, color, religion, national origin or ancestry, or (b) exercise or attempt to exercise, by physical violence against person or property, any power of correction or punishment over any person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this Act. Any such violence or attempt by a lynch mob shall constitute a lynching within the meaning of this Act.

SEC. 233. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both; or shall be fined not more than $10,000, or imprisoned not more than twenty years, or both, if the wrongful conduct herein results in death or maiming, or such damage to property as amounts to an infamous crime under applicable State or Territorial law. An infamous crime, for the purposes of this section, shall be deemed one which under applicable State or Territorial law is punishable by imprisonment for more than one year

SEC. 234. (a) Whenever a lynching shall occur, any peace officer of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding five years, or both.

(b) Whenever a lynching shall occur in any Territory, possession, District of Columbia, or in any other area in which the United States shall exercise exclusive criminal jurisdiction, any peace officer of the United States or of such Territory, possession, District, or area, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

SEC. 235. For the purposes of this Act the term "peace officer" shall include those officers, their deputies and assistants, who perform the functions of police personnel, sheriffs, constables, marshals, jailers, or jail wardens, by whatever nomenclature they are designated.

SEC. 236. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202, 10), shall include knowingly transporting, or causing to be transported, in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, or ancestry, or for purposes of punishment, correction, or intimidation.

SEC. 237. The city, county, town, village or other governmental subdivision wherein a lynching shall occur shall be liable to the person or persons injured by such lynching, or to his or their survivors, next of kin, or estates, for the damages sustained thereby without regard to whether such lynching was due to negligence, failure, or fault of the said governmental subdivision. Action to recover such liability may be maintained in any court of competent jurisdiction. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

PART 5—PROHIBITION OF DISCRIMINATION IN EMPLOYMENT

SEC. 241. Title 29, United States Code, is amended by adding thereto as chapter 9 thereof the following:

SECTION 1. This Act may be cited as the "Federal Fair Employment Practice Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the rights of some persons within the jurisdiction of the United States to employment without discrimination because of race, color, religion, or national origin are being denied, and that such infringements upon the American principle of freedom and equality of opportunity are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations, force large segments of our population into substandard conditions of living, foment industrial strife and domestic unrest, deprive the United States of the fullest utilization of its capacities for production, and thereby adversely affect the interstate and foreign commerce of the United States. The Congress recognizes that it is essential to the general welfare that this gap between principle and practice be closed; and that adequate protection of such rights of individuals must be provided to preserve our American heritage and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that the right to employment without discrimination because of race, color, religion, or national origin is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

(2) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

(3) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion. In accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof.

(b) The term "employment agency" includes any person undertaking to procure employees or opportunities to work.

(c) The term "employer" means a person engaged in commerce or in operations affecting commerce; any person who makes a contract with any agency or instrumentality of the United States, or of any Territory or possession of the United States, or of the District of Columbia; any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than a labor organization.

(d) The term "labor organization" means any organization, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, wages, hours, terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(e) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, possession, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory or possession; or between points in the same State but through any point outside thereof.

(f) The term "Territory" means Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

(g) The term "possession" means all possessions of the United States, and includes the trust territories which the United States holds as administering authority under the United Nations trusteeship system, and the Canal Zone, but excludes other places held by the United States by lease under international arrangements or by military occupation.

(h) The term "Commission" means the Fair Employment Practice Commission, created by section 6 hereof.

EXEMPTION

SEC. 4. This Act shall not apply to any employer with respect to the employment of aliens outside the continental United States, its Territories and possessions.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 5. (a) It shall be an unlawful employment practice for an employer—

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

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, color, religion, or national origin.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its

membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, or would deny a person or persons membership in its organization, or deny to any of its members equal treatment with all other members, because of such individual's race, color, religion, or national origin.

(c) It shall be an unlawful employment practice for any employer or employment agency to print or circulate or cause to be printed or circulated, any statement, advertisement, or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, or national origin, or any attempt to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification.

(d) It shall be an unlawful employment practice for any employer or labor organization or employment agency to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this Act.

(e) It shall be an unlawful employment practice for any person, whether employer, labor organization, or employment agency, to aid, abet, incite, compel, or coerce the doing of the acts forbidden under this Act, or attempt to do so.

THE FAIR EMPLOYMENT PRACTICE COMMISSION

SEC. 6. (a) There is hereby created in the executive branch of the Government a commission to be known as the Fair Employment Practice Commission, which shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commisison for the administrative operations of the Commission. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacany in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall make an annual report to the President for transmission to the Congress summarizing its activities during the preceding fiscal year, including the number and types of cases it has handled and the decisions it has rendered; and shall report to the President from time to time on the causes of and means of eliminating discrimination and make such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $17,500 a year, except that the Chairman shall receive a salary of $20,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct an investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent, other than a member of the Commission, designated to conduct a proceeding or a hearing shall be a resident of the judicial circuit, as defined in title 28, United States Code, section 41, within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint, in accordance with the Civil Service Act, rules, and regulations, such officers, agents, and employees as it deems necessary to assist it in the performance of its functions, and to fix their compensation in accordance with the Classification Act of 1949, as amended;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this Act such technical assistance as they may request to further their compliance with this Act or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this Act, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this Act and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this Act, and the Commission may authorize them to study the problem or specific instances of discrimination in employment because of race, color, religion, or national origin, and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizens resident of the area for which they are appointed, who shall serve without compensation, but shall receive transportation and per diem in lieu of subsistence as authorized by section 5 of the Act of August 2, 1946 (5 U. S. C. 73b–2), for persons serving without compensation; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 7. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 5. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise: *Provided*, That the Commission is empowered by agreement with any agency of any State, Territory, possession, or local government, to cede to such agency jurisdiction over any cases even though such cases may involve charges of unlawful employment practices within the scope of this Act, unless the provision of the statute or ordinance applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith.

(b) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the Act has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be used as evidence in any subsequent proceeding. Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(c) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this Act, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(d) The respondent shall have the right to file a verified answer to such written charge and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(e) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(f) All testimony shall be taken under oath.

(g) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof, except as a witness.

(h) At the conclusion of a hearing before a member or designated agent of the Commission, such member or agent shall transfer the entire record thereof to the Commission, together with his recommended decision. The Commission, or a panel of three qualified members designated by it to sit and act as the Commission in such case, shall afford the parties an opportunity to be heard on such record at a time and place to be specified upon reasonable notice. In its discretion, the Commission upon notice may take further testimony.

(i) With the approval of the member or designated agent conducting the hearing, a case may be ended at any time prior to the transfer of the record thereof to the Commission by agreement between the parties for the elimination of the alleged unlawful employment practice on mutually satisfactory terms.

(j) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the Act *Provided, however*, that interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint

(k) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the case may at any time be ended by agreement between the parties, approved by the Commission, for the elimination of the alleged unlawful employment practice on mutually satisfactory terms, and the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(l) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act

JUDICIAL REVIEW

SEC. 8. (a) The Commission shall have power to petition any United States court of appeals, or, if the court of appeals to which application might be made is on vacation, any district court or other United States court of the territory or place within the judicial circuit wherein the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(b) Upon such filing the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were resonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order of the Commission was based. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioners or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INVESTIGATORY POWERS

SEC. 9. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this Act, the Commission, or any member thereof, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(d) In case of contumacy or refusal to obey a subpena issued to any person under this Act, any district court of the United States as constituted by chapter 5, title 28, United States Code (28 U. S. C. 81 et seq), or the United States court of any Territory or other place subject to the jurisdiction of the United States, within the jurisdiction of which the investigation, proceedings, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission, shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having

claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES AND CONTRACTORS

SEC. 10. (a) The President is authorized to take such action as may be necessary—

(1) to conform fair employment practices within the Federal establishment with the policies of this Act, and

(2) to provide that any Federal employee aggrieved by any employment practice of his employer must exhaust the administrative remedies prescribed by Executive order or regulations governing fair employment practices within the Federal establishment prior to seeking relief under the provisions of this Act.

(b) The Commission may act against any State or local government or any agency, officer or employee thereof who commits an unfair labor practice as described in this Act, provided that any State or local government employee aggrieved by any employment practice of his employer must exhaust any administrative remedies prescribed by the regulations of any State or local government involved prior to seeking relief under the provisions of this Act.

(c) The provision of section 8 shall not apply with respect to an order of the Commission under section 7 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or of the District of Columbia, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders.

NOTICES TO BE POSTED

SEC. 11. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Commission setting forth excerpts of the Act and such other relevant information which the Commission deems appropriate to effectuate the purposes of the Act.

(b) A willful violation of this section shall be punishable by a fine of not more than $500 for each separate offense.

VETERANS' PREFERENCE

SEC. 12. Nothing contained in this Act shall be construed to repeal or modify any Federal, State, Territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

SEC. 13. The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this Act. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 14. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this Act, or because of such performance, shall be punished by a fine of not more than $500 or by imprisonment for not more than one year, or by both.

SEPARABILITY CLAUSE

SEC. 15. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SEC. 242. Tital 41, United States Code, section 34, is hereby amended to add thereto a new subdivision, to be known as subdivision (f) and to read as follows:

"(f) That all persons employed by the contractor in the manufacture or furnishing of the materials, supplies, articles or equipment used in the performance of any contract will be employed without regard to or discrimination because

of race, color, religion or national origin and that no person will be denied employment or if employed subjected to discriminatory practices because of his race, color, religion or national origin."

PART 6—PROHIBITION AGAINST DISCRIMINATION AND SEGREGATION IN HOUSING

SEC. 251. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries.

SEC. 252. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings but shall not include any accommodations operated by a religious or denominational organization as part of its religious or denomination activities.

SEC. 253. No action, suit, or proceeding may be entertained in any district court of the United States or of the District of Columbia for the enforcement or protection of any contract or agreement or any covenant or other restriction in any instrument affecting real property which limits the opportunity of any person or persons to obtain housing accommodations, or to purchase, rent, lease, or occupy residential real property because of their race, color, religion, or national origin, nor may any action be maintained in those courts to recover damages for the breach of such contracts, agreements, covenants, or other restrictions.

SEC. 254. It is declared to be the policy of the United States that the moneys or credit of the United States shall not be used for the perpetuation or extension of discrimination against any person or class of persons because of their race, color, religion, or national origin. Discrimination shall include segregation or separation.

SEC. 255. No officer or agent of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or those of any Territory or of the District of Columbia, shall discriminate against any person contrary to the policy of section 4 of this title in the granting of any right of occupancy in any housing accommodation within his jurisdiction.

SEC. 256. Any loan, grant, gift, or payment of moneys of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or those of any Territory or of the District of Columbia, made under laws of the United States or of any Territory or of the District of Columbia, authorizing such loan, grant, gift, or payment of moneys to be made (1) for the purchase, rental or lease of land for the construction of housing accommodations, or (2) for the purchase, rental, lease or construction of housing accommodations, or the underwriting or guaranty in whole or in part of any purchase, sale, lease, rental or any lending or mortgage transaction involving such land or housing accommodations, or the purchase or discount of any lien or other obligation secured by such land or housing accommodation, shall be made upon the condition that no part of said loans, grants, gifts, or of any sum underwritten or guaranteed, or of any moneys paid as a part of any mortgage, lien or any other lending transaction which is ultimately purchased or discounted by the United States shall be used in the purchase or construction of any housing accommodation where discrimination contrary to the policy set forth in this title shall be practiced in the rental, lease, or sale of said housing accommodation, or the granting of any right of occupancy thereto.

SEC. 257. No officer of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or of those of any Territory or of the District of Columbia shall permit or authorize any loan, grant, gift, or payment of moneys as described in section 6 of this title unless he shall receive a statement in writing signed by the recipient of such loan, grant, gift, or payment of moneys that such recipient has read section 6 of this Act and has agreed to its conditions as a condition of such loan, grant, gift, or payment of moneys, nor shall any officer of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or of those of any Territory or of the District of Columbia permit or authorize any underwriting or guaranty in whole or in part of any purchase, sale, lease, rental, or of any lending or mortgage transaction involving such land or housing accommodations, or the purchase or discount of any mortgage or lien or other obligation secured by such land or housing accommodations

unless and until he shall receive a statement in writing signed by all of the parties to the transaction to be underwritten or guaranteed or to the mortgage, lien, or other security to be purchased or discounted, which shall state that such parties have read section 6 of this Act and have agreed to its conditions as a condition of such underwriting, guaranty, purchase, or discount. Any transaction described in this section wherein the statements in writing described in this section have not been submitted may be revoked by the Government at any time and be treated as null and void ab initio

SEC. 258 In any rental, sale, lease, gift, or grant of land or buildings by the United States or any Territory or the District of Columbia to any person or to any State, Territory, or the District of Columbia, or to any agency or political subdivision of any State, Territory, or the District of Columbia, the renter, lessee, purchaser, donee, or grantee shall agree that he or it will not discriminate in the sale, lease, rental, or granting of occupancy of any housing accommodations then or later existing upon such land No officer of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or of those of any Territory or of the District of Columbia shall permit or authorize any of the transactions described in this section unless he shall receive a statement in writing signed by the prospective purchaser, renter, lessee, donee, or grantee stating that he has read this section and agreed to its conditions.

SEC 259. Upon the completion of any transaction described in section 6 or 8 of this title, the officer of the Government charged with the completion of such transaction shall cause to be filed in the district court of the district or districts where the property involved is situated, a description of said property and copies of the statements described in sections 257 and 258 of this title.

SEC 260. The terms and conditions of the agreement described in sections 257 and 258 of this title shall be incorporated by operation of law as a part of the terms of any transfer in whole or in part of any right, title, or interest in the land described in sections 6 and 8 of this title, or of any buildings then existing or later erected on said lands

SEC 261. (a) If in any transaction of loan, grant, gift, or payment of moneys described in section 256 of this title, any condition shall be breached, the United States may by an action in the district court or other appropriate court where said property is situated, have said grant, loan, gift, or payment of moneys declared null and void ab initio and subject said property to a lien in the amount of said loan, grant, gift, or payment of moneys.

(b) If in any transaction of underwriting or guarantee, or purchase or discount of a mortgage, lien, or other obligation as described in section 256 of this title, the condition there set forth shall be breached, the United States may by an action in the district court or other appropriate court where the property concerned is situated, have said underwriting or guarantee declared at an end and any mortgage, lien, or obligation may be declared immediately due, and payable in the full amount of its face value.

(c) If the renter, lessee, purchaser, donee, or grantee described in section 8 of this title or any successor, in interest shall breach the condition set forth in section 8 of this title, the United States may declare the transaction null and void and the property or right concerned therein shall revert to the United States.

SEC. 262. Any person who shall be injured by reason of anything forbidden in this title or failure to do anything commanded by this title may sue therefor in any district court of the United States in the district in which the defendant resides or is found, or the district in which the property concerned is situated without respect to the amount in controversy and shall recover threefold the damages by him sustained and the cost of the suit including a reasonable attorney's fee

SEC. 263. The several district courts of the United States are vested with jurisdiction to prevent and restrain discrimination in violation of any agreement described in this title and it shall be the duty of the several district attorneys in the United States in their respective districts and of the Civil Rights Division under the direction of the Attorney General to institute proceedings in equity to prevent and restrain such violations or to join in any such action initiated by a person aggrieved.

SEC. 264. Any officer or agent of the United States or of any Territory of the United States, or of the District of Columbia, or any corporation whose funds or moneys come in whole or in part from Federal moneys or those of any Territory or of the District of Columbia, who shall discriminate contrary to the pro-

vision of sections 4 and 5 of this title shall be fined not more than $10,000 or imprisoned not more than five years, or both

SEC. 265. Any person who shall discriminate against any person or persons contrary to any agreement described by this title in the operation, sale, lease, maintenance, or granting of any right to occupancy to any land or housing accommodation, or who knowing or having reason to know of such discrimination by any of his agents, shall permit such discrimination, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 266. Any officer of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or the moneys of any Territory or of the District of Columbia, who shall neglect or fail to perform any duty placed upon him by section 7, 8, or 9 of this title shall be fined not more than $1,000 and imprisoned not more than one year, or both.

SEC. 267. (a) If any officer of any State or local agency which shall be engaged in the administration, operation, maintenance, rental, sale, lease, or granting of any right of occupancy of any land or housing accommodation described in sections 6 or 8 of this title shall discriminate contrary to the provisions of any agreement made under this title in any of such administration, operation, maintenance, rental, sale, lease, or granting of any right of occupancy, the Civil Rights Division, the Federal agent under whose jurisdiction the agreement was made, or any person or persons or corporation injured by such discrimination may make a report thereof to the Administrator of the Housing and Home Finance Agency. Upon the receipt of any such report, or upon the receipt of any other information which seems to the Administrator to warrant any investigation, the Administrator shall fix a time and place for a hearing, and shall by registered mail send to the officer or employee charged with the violation and to the State or local agency employing such officer or employee a notice setting forth a summary of the alleged violation and the time and place of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer or employee or the State or local agency, or both, may appear with counsel and be heard. After such hearing, the Administrator shall determine whether any violation of such subsection has occurred and whether such violation, if any, warrants the removal of the officer or employee by whom it was committed from his office or employment, and shall by registered mail notify such officer or employee and the appropriate State or local agency of such determination. If in any case the Administrator finds that such officer or employee has not been removed from his office or employment within thirty days after notice of a determination by the Administrator that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any State or local agency in such State, the Administrator shall make and certify to the appropriate Federal agency an order requiring it to withhold from its loans or grants to the State or local agency to which such notification was given an amount equal to two years compensation at the rate such officer or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State or local agency which receives loans or grants from any Federal agency, such order shall require the withholding of such amount from such other State or local agency.

(b) Any party aggrieved by any determination or order under section 267 (a) including any person allegedly injured by the alleged discrimination may within thirty days after the determination or order institute proceedings for the review thereof by filing a written petition in the United States Court of Appeals for the District of Columbia. A copy of such petition shall be forthwith served upon the Administrator and thereupon the aggrieved party shall file in the Court a transcript of the entire record of the proceeding, certified by the Administrator, including the complete testimony upon which the order complained of was entered and the findings and order of the Administrator. Thereupon the court shall have jurisdiction of the proceedings and of the question determined thereunder and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Administrator. The findings of the Administrator with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(c) The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Administrator's order.

SEC. 268. The Administrator of the Housing and Home Finance Agency shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of the Act. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

PART 7—PROHIBITION AGAINST DISCRIMINATION IN EDUCATION

SEC. 271. No officer, agent, or employee of any school or educational institution or of any State or local agency concerned with the maintenance, operation, or direction of any school or educational institution which receives any Federal funds or any Federal tax exemption as an educational institution shall discriminate against or segregate any person in the maintenance or operation of such school or educational institution because of his race, color, religion, or national origin. Nor shall such officer, agent, or employee either require the submission of a photograph along with applications made to such schools or educational institutions for admission thereto, or include on such application forms any questions concerning race, color, religion, or national origin. The enumeration of the foregoing practices shall not be deemed as exclusive or as excluding the prohibition of other devices used or which may be used to facilitate discrimination.

SEC. 272. (a) If any officer, agent, or employee of any school or educational institution or of any State or local agency concerned with the maintenance, operation, or direction of any school or educational institution which receives any Federal funds or any Federal tax exemption as an educational institution shall discriminate against or segregate any person in the maintenance or operation of such school or educational institution because of his race, color, religion, or national origin, the Civil Rights Division, the Federal agency under whose jursdiction the grant of Federal funds or tax exemption is made or given, or any person or persons injured by such discrimination or segregation may make a report thereof to the Administrator of the Federal Security Agency. Upon the receipt of any such report, or upon the receipt of any other information which seems to the Administrator to warrant any investigation, the Administrator shall fix a time and place for a hearing, and shall by registered mail send to the officer, agent, or employee charged with the violation and to the State or local agency, school, or educational institution employing such officer, agent, or employee a notice setting forth a summary of the alleged violation and the time and place of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer, agent, or employee or the State or local agency, school, or educational institution, or both, may appear with counsel and be heard. After such hearing, the Administrator shall determine whether any violation of section 1 of this title has occurred and whether such violation, if any, warrants the removal of the officer, agent, or employee by whom it was committeed from his office, agency, or employment, and shall by registered mail notify such officer, agent, or employee and the appropriate State or local agency, school, or educational institution of such determination. If in any case the Administrator finds that such officer, agent, or employee has not been removed from his office or employment within thirty days after notice of a determination by the Administrator that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any school or educational institution in such State, the Administrator shall make and certify to the appropriate Federal agency an order requiring it to withhold from its loans or grants, or to diminish the tax exempted to the State or local agency or school or educational institution to which such notification was given an amount equal to two years' compensation at the rate such officer, agent, or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State or local agency, school, or educational institution which receives loans or grants or tax exemption from any Federal agency, such order shall require the withholding of such amount from such other State or local agency, school, or educational institution.

(b) Any party aggrieved by any determination or order under section 272 (a), including any persons allegedly injured by the alleged discrimination or segre-

gation may within thirty days after the determination or order institute proceedings for the review thereof by filing a written petition in the United States Court of Appeals for the District of Columbia. A copy of such petition shall be forthwith served upon the Administrator and thereupon the aggrieved party shall file in the court a transcript of the entire record of the proceeding, certified by the Administrator, including the complete testimony upon which the order complained of was entered and the findings and order of the Administrator. Thereupon the Court shall have jurisdiction of the proceedings and of the question determined thereunder and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Administrator. The findings of the Administrator with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(c) The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Administrator's order.

SEC. 273. If any officer, agent, or employee of the United States or of any Territory or of the District of Columbia or of any corporation whose stock is owned in whole or in part by the United States or of any State or local agency concerned with the maintenance, operation, or direction of any school or educational institution, or any officer, agent, or employee of any school or educational institution which receives any Federal funds or any Federal tax exemption in connection with its educational activities shall discriminate or segregate contrary to the provsions of section 271, he shall be fined not more than $5,000 and imprisoned not more than one year.

SEC. 274. Any person who shall be injured by reason of anything forbidden in this title may sue therefor in the District Court of the United States in the district in which the defendant resides or is found or has an agent without respect to the amount in controversy and shall recover threefold the damages by him sustained and the cost of the suit including a reasonable attorney's fee.

SEC. 275. The several district courts of the United States are vested with jurisdiction to prevent and restrain violations of this title and it shall be the duty of the several district attorneys of the United States in their respective districts and of the Civil Rights Division under the direction of the Attorney General to institute proceedings in equity to prevent and restrain such violations or to associate themselves with an action in equity instituted by a party aggrieved

SEC. 276. This title shall not apply to religious discrimination or segregation by any institutions chartered or licensed to further or perpetuate the religious ideas of any religion.

SEC. 277. The Administrator of the Federal Security Agency shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this Act. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

[H. R. 3688, 84th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1955."

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TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP, AND ITS PRIVILEGES

SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States have long been and still are being denied, abridged, or threatened by the conduct of both Government officials and private persons, and particularly by the nonfeasance and misfeasance of public officials in many States in failing to protect the civil rights of Negro inhabitants, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life.

(b) The Congress therefore declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution against interference by the conduct of both Government officials and private persons, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote and enforce unversal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART I—ESTABISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 101. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office. Any vacancy in the Commission

shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil rights matter.

SEC. 103. (a) The Commisison may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize services of voluntary and uncompensated personnel and to pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at the rate not in excess of $10).

(c) Within the limitations of its appropriations, the Commission shall appoint a full-time staff director and such other full-time personnel as is necessary to its proper functioning, to secure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 111. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States. The Civil Rights Division shall have attached to it, and under its direction, an investigating staff whose function it shall be to investigate all civil-rights cases under applicable Federal law.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP, AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both, or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) The rights, privileges, and immunities referred to in this section shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial wherein the charged person or persons shall be represented by counsel and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, national origin, or ancestry.

"(6) The right to vote as protected by Federal law.

"(d) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his race, color, religion, national origin, or ancestry, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The rights, privileges, and immunities referred to in section 241c, title 18, United States Code.

"(2) The right to secure and engage in any employment, to conduct business, commerce or professional activities, to be entitled to attend school, to utilize public accommodations, to secure, own, and live in a home or apartment and otherwise to the full opportunity and freedom to engage in all lawful, social, commercial, educational, political, and entertaining activities without discrimination by reason of race, color, religion, national origin, or ancestry."

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a

slave; or whoever entices, persuades, or induces, or attempts to entice, persuade, or induce any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both."

PART 2—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. (a) Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to qualify to vote, to vote, or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Whoever, because of the race, color, religion, national origin, or ancestry of any other person, intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce such person for the purpose of interfering with the right of such other person to qualify to vote, to vote, or to vote as he may choose at any general, special, or primary election of the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other territorial subdivision, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"(a) All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other territorial subdivision, without distinction, direct or indirect, based on race, color, religion, national origin or ancestry; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law.

"(b) The right of all citizens of the United States, eligible by law, to qualify to vote, to vote, and to vote as they may choose at any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegates or Commissioners from the Territories and possessions shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, action for mandamus, or other proper proceeding for damages or preventive or mandatory or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, national origin or ancestry

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, national origin, or ancestry or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.) or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, national origin, or ancestry of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminates against them on account of race, color, religion, national origin, or ancestry shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any District court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

PART 4—PROTECTION OF PERSONS FROM LYNCHING

SEC. 231. It is hereby declared that the right to be free from lynching is a right of all persons within the jurisdiction of the United States. Such right is in addition to any similar rights they may have as citizens of any of the several States or as persons within their jurisdiction.

SEC. 232. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon any person or persons or on his or their property directly or indirectly because of, or wholly or in part because of his or their race, color, religion, national origin, or ancestry, or (b) exercise or attempt to exercise, by physical violence against person or property, any power of correction or punishment over any person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this Act. Any such violence or attempt by a lynch mob shall constitute a lynching within the meaning of this Act.

SEC. 233. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both; or shall be fined not more than $10,000, or imprisoned not more than twenty years, or

both, if the wrongful conduct herein results in death or maiming, or such damage to property as amounts to an infamous crime under applicable State or Territorial law. An infamous crime, for the purposes of this section, shall be deemed one which under applicable State or Territorial law is punishable by imprisonment for more than one year.

SEC. 234. (a) Whenever a lynching shall occur, any peace officer of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding five years, or both.

(b) Whenever a lynching shall occur in any Territory, possession, District of Columbia, or in any other area in which the United States shall exercise exclusive criminal jurisdiction, any peace officer of the United States or of such Territory, possession, District, or area, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

SEC. 235. For the purposes of this Act the term "peace officer" shall include those officers, their deputies and assistants, who perform the functions of police personnel, sheriffs, constables, marshals, jailers, or jail wardens, by whatever nomenclature they are designated.

SEC. 236. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S C. 1201, 1202, 10), shall include knowingly transporting, or causing to be transported, in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, or ancestry, or for purposes of punishment, correction, or intimidation.

SEC. 237. The city, county, town, village or other governmental subdivision wherein a lynching shall occur shall be liable to the person or persons injured by such lynching, or to his or their survivors, next of kin, or estates, for the damages sustained thereby without regard to whether such lynching was due to negligence, failure, or fault of the said governmental subdivision. Action to recover such liability may be maintained in any court of competent jurisdiction. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

PART 5—PROHIBITION OF DISCRIMINATION IN EMPLOYMENT

SEC. 241. Title 29, United States Code, is amended by adding thereto as chapter 9 thereof the following:

SECTION 1. This Act may be cited as the "Federal Fair Employment Practice Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the rights of some persons within the jurisdiction of the United States to employment without discrimination because of race, color, religion, or national origin are being denied, and that such infringements upon the American principle of freedom and equality of opportunity are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which

distinguishes it from the totalitarian nations, force large segments of our population into substandard conditions of living, foment industrial strife and domestic unrest, deprive the United States of the fullest utilization of its capacities for production, and thereby adversely affect the interstate and foreign commerce of the United States. The Congress recognizes that it is essential to the general welfare that this gap between principle and practice be closed; and that adequate protection of such rights of individuals must be provided to preserve our American heritage and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that the right to employment without discrimination because of race, color, religion, or national origin is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

(2) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

(3) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion. In accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof.

(b) The term "employment agency" includes any person undertaking to procure employees or opportunities to work.

(c) The term "employer" means a person engaged in commerce or in operations affecting commerce; any person who makes a contract with any agency or instrumentality of the United States, or of any Territory or possession of the United States, or of the District of Columbia; any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than a labor organization.

(d) The term "labor organization" means any organization, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, wages, hours, terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(e) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, possession, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory or possession; or between points in the same State but through any point outside thereof.

(f) The term "Territory" means Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

(g) The term "possession" means all possessions of the United States, and includes the trust territories which the United States holds as administering authority under the United Nation trusteeship system, and the Canal Zone, but excludes other places held by the United States by lease under international arrangements or by military occupation.

(h) The term "Commission" means the Fair Employment Practice Commission, created by section 6 hereof.

EXEMPTION

SEC. 4. This Act shall not apply to any employer with respect to the employment of aliens outside the continental United States, its Territories and possessions.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 5. (a) It shall be an unlawful employment practice for an employer—

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

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, color, religion, or national origin.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, or would deny a person or persons membership in its organization, or deny to any of its members equal treatment with all other members, because of such individual's race, color, religion, or national origin.

(c) It shall be an unlawful employment practice for any employer or employment agency to print or circulate or cause to be printed or circulated, any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, or national origin, or any attempt to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification.

(d) It shall be an unlawful employment practice for any employer or labor organization or employment agency to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this Act.

(e) It shall be an unlawful employment practice for any person, whether employer, labor organization, or employment agency, to aid, abet, incite, compel, or coerce the doing of the acts forbidden under this Act, or attempt to do so.

THE FAIR EMPLOYMENT PRACTICE COMMISSION

SEC. 6. (a) There is hereby created in the executive branch of the Government a commission to be known as the Fair Employment Practice Commission, which shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall make an annual report to the President for transmission to the Congress summarizing its activities during the preceding fiscal year, including the number and types of cases it has handled and the decisions it has rendered; and shall report to the President from time to time on the causes of and means of eliminating discrimination and make such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $17,500 a year, except that the Chairman shall receive a salary of $20,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct an investigation, proceeding, or hearing necessary to its functions in any part of the United States Any such agent, other than a member of the Commission, designated to conduct a proceeding or a hearing shall be a resident of the judicial circuit, as defined in title 28, United States Code, section 41, within which the alleged unlawful employment practice occurred.

(g) The Commision shall have power—

(1) to appoint, in accordance with the Civil Service Act, rules, and regulations, such officers, agents, and employees as it deems necessary to assist it in the performance of its functions, and to fix their compensation in accordance with the Classification Act of 1949, as amended;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this Act such technical assistance as they may request to further their compliance with this Act or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this Act, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this Act and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this Act, and the Commission may authorize them to study the problem or specific instances of discrimination in employment because of race, color, religion, or national origin, and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizens residents of the area for which they are appointed, who shall serve without compensation, but shall receive transportation and per diem in lieu of subsistence as authorized by section 5 of the Act of August 2, 1946 (5 U. S. C. 73b-2), for persons serving without compensation; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 7. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 5. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise: *Provided*, That the Commission is empowered by agreement with any agency of any State, Territory, possession, or local government, to cede to such agency jurisdiction over any cases even though such cases may involve charges of unlawful employment practices within the scope of this Act, unless the provision of the statute or ordinance applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith.

(b) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the Act has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and per-

suasion. Nothing said or done during and as a part of such endeavors may be used as evidence in any subsequent proceeding. Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(c) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this Act, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(d) The respondent shall have the right to file a verified answer to such written charge and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(e) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(f) All testimony shall be taken under oath.

(g) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof, except as a witness.

(h) At the conclusion of a hearing before a member or designated agent of the Commission, such member or agent shall transfer the entire record thereof to the Commission, together with his recommended decision. The Commission, or a panel of three qualified members designated by it to sit and act as the Commission in such case, shall afford the parties an opportunity to be heard on such record at a time and place to be specified upon reasonable notice. In its discretion, the Commission upon notice may take further testimony.

(i) With the approval of the member or designated agent conducting the hearing, a case may be ended at any time prior to the transfer of the record thereof to the Commission by agreement between the parties for the elimination of the alleged unlawful employment practice on mutually satisfactory terms.

(j) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the Act: *Provided, however*, That interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint.

(k) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the case may at any time be ended by agreement between the parties, approved by the Commission, for the elimination of the alleged unlawful employment practice on mutually satisfactory terms, and the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(l) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act.

JUDICIAL REVIEW

SEC. 8. (a) The Commission shall have power to petition any United States court of appeals or, if the court of appeals to which application might be made is on vacation, any district court or other United States court of the territory or place within the judicial circuit wherein the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony

upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(b) Upon such filing the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript, a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order of the Commission was based. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioners or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INVESTIGATORY POWERS

SEC. 9. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this Act, the Commission, or any member thereof, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of

Columbia, or any Territory or possession thereof, at any designated place of hearing.

(d) In case of contumacy or refusal to obey a subpena issued to any person under this Act, any district court of the United States as constituted by chapter 5, title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, within the jurisdiction of which the investigation, proceedings, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission, shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES AND CONTRACTORS

SEC. 10. (a) The President is authorized to take such action as may be necessary—

(1) to conform fair employment practices within the Federal establishment with the policies of this Act, and

(2) to provide that any Federal employee aggrieved by any employment practice of his employer must exhaust the administrative remedies prescribed by Executive order or regulations governing fair employment practices within the Federal establishment prior to seeking relief under the provisions of this Act.

(b) The Commission may act against any State or local government or any agency, officer or employee thereof who commits an unfair labor practice as described in this Act, provided that any State or local government employee aggrieved by any employment practice of his employer must exhaust any administrative remedies prescribed by the regulations of any State or local government involved prior to seeking relief under the provisions of this Act.

(c) The provision of section 8 shall not apply with respect to an order of the Commission under section 7 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or of the District of Columbia, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders.

NOTICES TO BE POSTED

SEC. 11. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Commission setting forth excerpts of the Act and such other relevant information which the Commission deems appropriate to effectuate the purposes of the Act.

(b) A willful violation of this section shall be punishable by a fine of not more than $500 for each separate offense.

VETERANS' PREFERENCE

SEC. 12. Nothing contained in this Act shall be construed to repeal or modify any Federal, State, Territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

SEC. 13. The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this Act. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 14. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this Act, or because of such performance, shall be punished by a fine of not more than $500 or imprisonment for not more than one year, or by both.

SEPARABILITY CLAUSE

SEC. 15. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby

SEC. 242. Title 41, United States Code, section 34, is hereby amended to add thereto a new subdivision, to be known as subdivision (f) and to read as follows:

"(f) That all persons employed by the contractor in the manufacture or furnishing of the materials, supplies, articles or equipment used in the performance of any contract will be employed without regard to or discrimination because of race, color, religion or national origin and that no person will be denied employment or if employed subjected to discriminatory practices because of his race, color, religion or national origin."

PART 6—PROHIBITION AGAINST DISCRIMINATION AND SEGREGATION IN HOUSING

SEC. 251. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries.

SEC. 252. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings but shall not include any accommodations operated by a religious or denominational organization as part of its religious or denomination activities.

SEC. 253. No action, suit, or proceeding may be entertained in any district court of the United States or of the District of Columbia for the enforcement or protection of any contract or agreement or any covenant or other restriction in any instrument affecting real property which limits the opportunity of any person or persons to obtain housing accommodations, or to purchase, rent, lease, or occupy residential real property because of their race, color, religion, or national origin, nor may any action be maintained in those courts to recover damages for the breach of such contracts, agreements, covenants, or other restrictions.

SEC. 254. It is declared to be the policy of the United States that the moneys or credit of the United States shall not be used for the perpetuation or extension of discrimination against any person or class of persons because of their race, color, religion, or national origin. Discrimination shall include segregation or separation.

SEC 255 No officer or agent of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or those of any Territory or of the District of Columbia, shall discriminate against any person contrary to the policy of section 4 of this title in the granting of any right of occupancy in any housing accommodation within his jurisdiction.

SEC. 256. Any loan, grant, gift, or payment of moneys of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or those of any Territory or of the District of Columbia, made under laws of the United States or of any Territory or of the District of Columbia, authorizing such loan, grant, gift or payment of moneys to be made (1) for the purchase, rental or lease of land for the construction of housing accommodations, or (2) for the purchase, rental, lease or construction of housing accommodations, or the underwriting or guaranty in whole or in part of any purchase, sale, lease, rental or any lending or mortgage transaction involving such land or housing accommodations, or the purchase or discount of any lien or other obligation secured by such land or housing accommodation, shall be made upon the condition that no part of said loans, grants, gifts, or of any sum underwritten or guaranteed, or of any moneys paid as a part of any mortgage, lien or any other lending transaction which is ultimately purchased or discounted by the United

States shall be used in the purchase or construction of any housing accommodation where discrimination contrary to the policy set forth in this title shall be practiced in the rental, lease, or sale of said housing accommodation, or the granting of any right of occupancy thereto.

SEC. 257. No officer of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or of those of any Territory or of the District of Columbia shall permit or authorize any loan, grant, gift, or payment of moneys as described in section 6 of this title unless he shall receive a statement in writing signed by the recipient of such loan, grant, gift, or payment of moneys that such recipient has read section 6 of this Act and has agreed to its conditions as a condition of such loan, grant, gift, or payment of moneys, nor shall any officer of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or of those of any Territory or of the District of Columbia permit or authorize any underwriting or guaranty in whole or in part of any purchase, sale, lease, rental, or of any lending or mortgage transaction involving such land or housing accommodations, or the purchase or discount of any mortgage or lien or other obligation secured by such land or housing accommodations unless and until he shall receive a statement in writing signed by all of the parties to the transaction to be underwritten or guaranteed or to the mortgage, lien, or other security to be purchased or discounted, which shall state that such parties have read section 6 of this Act and have agreed to its conditions as a condition of such underwriting, guaranty, purchase, or discount. Any transaction described in this section wherein the statements in writing described in this section have not been submitted may be revoked by the Government at any time and be treated as null and void ab initio.

SEC. 258. In any rental, sale, lease, gift, or grant of land or buildings by the United States or any Territory or the District of Columbia to any person or to any State, Territory, or the District of Columbia, or to any agency or political subdivision of any State, Territory, or the District of Columbia, the renter, lessee, purchaser, donee, or grantee shall agree that he or it will not discriminate in the sale, lease, rental, or granting of occupancy of any housing accommodations then or later existing upon such land. No officer of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from any Federal moneys or of those of any Territory or of the District of Columbia shall permit or authorize any of the transactions described in this section unless he shall receive a statement in writing signed by the prospective purchaser, renter, lessee, donee, or grantee stating that he has read this section and agreed to its conditions.

SEC. 259. Upon the completion of any transaction described in section 6 or 8 of this title, the officer of the Government charged with the completion of such transaction shall cause to be filed in the district court of the district or districts where the property involved is situated, a description of said property and copies of the statements described in sections 257 and 258 of this title.

SEC. 260. The terms and conditions of the agreement described in sections 257 and 258 of this title shall be incorporated by operation of law as a part of the terms of any transfer in whole or in part of any right, title, or interest in the land described in sections 6 and 8 of this title, or of any buildings then existing or later erected on said lands.

SEC. 261. (a) If in any transaction of loan, grant, gift, or payment of moneys described in section 256 of this title, any condition shall be breached, the United States may by an action in the district court or other appropriate court where said property is situated, have said grant, loan, gift, or payment of moneys declared null and void ab initio and subject said property to a lien in the amount of said loan, grant, gift, or payment of moneys.

(b) If in any transaction of underwriting or guarantee, or purchase or discount of a mortgage, lien, or other obligation as described in section 256 of this title, the condition there set forth shall be breached, the United States may by an action in the district court or other appropriate court where the property concerned is situated, have said underwriting or guarantee declared at an end and any mortgage, lien, or obligation may be declared immediately due, and payable in the full amount of its face value.

(c) If the renter, lessee, purchaser, donee, or grantee described in section 8 of this title or any successor in interest shall breach the condition set forth in section 8 of this title, the United States may declare the transaction null and

void and the property or right concerned therein shall revert to the United States.

SEC. 262. Any person who shall be injured by reason of anything forbidden in this title or failure to do anything commanded by this title may sue therefor in any district court of the United States in the district in which the defendant resides or is found, or the district in which the property concerned is situated without respect to the amount in controversy and shall recover threefold the damages by him sustained and the cost of the suit including a reasonable attorney's fee.

SEC. 263. The several district courts of the United States are vested with jurisdiction to prevent and restrain discrimination in violation of any agreement described in this title and it shall be the duty of the several district attorneys in the United States in their respective districts and of the Civil Rights Division under the direction of the Attorney General to institute proceedings in equity to prevent and restrain such violations or to join in any such action initiated by a person aggrieved.

SEC. 264. Any officer or agent of the United States or of any Territory of the United States, or of the District of Columbia, or any corporation whose funds or moneys come in whole or in part from Federal moneys or those of any Territory or of the District of Columbia, who shall discriminate contrary to the provisions of sections 4 and 5 of this title shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 265. Any person who shall discriminate against any person or persons contrary to any agreement described by this title in the operation, sale, lease, maintenance, or granting of any right to occupancy to any land or housing accommodation, or who knowing or having reason to know of such discrimination by any of his agents, shall permit such discrimination, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 266. Any officer of the United States or of any Territory of the United States or of the District of Columbia or any corporation whose funds or moneys come in whole or in part from Federal moneys or the moneys of any Territory or of the District of Columbia, who shall neglect or fail to perform any duty placed upon him by section 7, 8, or 9 of this title shall be fined not more than $1,000 and imprisoned not more than one year, or both.

SEC. 267. (a) If any officer of any State or local agency which shall be engaged in the administration, operation, maintenance, rental, sale, lease, or granting of any right of occupancy of any land or housing accommodation described in sections 6 or 8 of this title shall discriminate contrary to the provisions of any agreement made under this title in any of such administration, operation, maintenance, rental, sale, lease, or granting of any right of occupancy, the Civil Rights Division, the Federal agent under whose jurisdiction the agreement was made, or any person or persons or corporation injured by such discrimination may make a report thereof to the Administrator of the Housing and Home Finance Agency. Upon the receipt of any such report, or upon the receipt of any other information which seems to the Administrator to warrant any investigation, the Administrator shall fix a time and place for a hearing, and shall by registered mail send to the officer or employee charged with the violation and to the State or local agency employing such officer or employee a notice setting forth a summary of the alleged violation and the time and place of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer or employee or the State or local agency, or both, may appear with counsel and be heard. After such hearing, the Administrator shall determine whether any violation of such subsection has occurred and whether such violation, if any, warrants the removal of the officer or employee by whom it was committed from his office or employment, and shall by registered mail notify such officer or employee and the appropriate State or local agency of such determination. If in any case the Administrator finds that such officer or employee has not been removed from his office or employment within thirty days after notice of a determination by the Administrator that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any State or local agency in such State, the Administrator shall make and certify to the appropriate Federal agency an order requiring it to withhold from its loans or grants to the State or local agency to which such notification was given an amount equal to two years compensation at the rate such officer or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State

or local agency which receives loans or grants from any Federal agency, such order shall require the withholding of such amount from such other State or local agency.

(b) Any party aggrieved by any determination or order under section 267 (a) including any person allegedly injured by the alleged discrimination may within thirty days after the determination or order institute proceedings for the review thereof by filing a written petition in the United States Court of Appeals for the District of Columbia. A copy of such petition shall be forthwith served upon the Administrator and thereupon the aggrieved party shall file in the Court a transcript of the entire record of the proceeding, certified by the Administrator, including the complete testimony upon which the order complained of was entered and the findings and order of the Administrator. Thereupon the court shall have jurisdiction of the proceedings and of the question determined thereunder and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Administrator. The findings of the Administrator with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(c) The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Administrator's order.

SEC. 268. The Administrator of the Housing and Home Finance Agency shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of the Act. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

PART 7—PROHIBITION AGAINST DISCRIMINATION IN EDUCATION

SEC. 271. No officer, agent, or employee of any school or educational institution or of any State or local agency concerned with the maintenance, operation, or direction of any school or educational institution which receives any Federal funds or any Federal tax exemption as an educational institution shall discriminate against or segregate any person in the maintenance or operation of such school or educational institution because of his race, color, religion, or national origin. Nor shall such officer, agent, or employee either require the submission of a photograph along with applications made to such schools or educational institutions for admission thereto, or include on such application forms any questions concerning race, color, religion, or national origin. The enumeration of the foregoing practices shall not be deemed as exclusive or as excluding the prohibition of other devices used or which may be used to facilitate discrimination.

SEC. 272. (a) If any officer, agent, or employee of any school or educational institution or of any State or local agency concerned with the maintenance, operation, or direction of any school or educational institution which receives any Federal funds or any Federal tax exemption as an educational institution shall discriminate against or segregate any person in the maintenance or operation of such school or educational institution because of his race, color, religion, or national origin, the Civil Rights Division, the Federal agency under whose jurisdiction the grant of Federal funds or tax exemption is made or given, or any person or persons injured by such discrimination or segregation may make a report thereof to the Administrator of the Federal Security Agency. Upon the receipt of any such report, or upon the receipt of any other information which seems to the Administrator to warrant any investigation, the Administrator shall fix a time and place for a hearing, and shall by registered mail send to the officer, agent, or employee charged with the violation and to the State or local agency, school, or educational institution employing such officer, agent, or employee a notice setting forth a summary of the alleged violation and the time and place of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer, agent, or employee or the State or local agency, school, or educational institution, or both, may appear with counsel and be heard. After such hearing, the Administrator shall determine whether any violation of section 1 of this title has occurred and whether such violation, if any, warrants the removal of the officer, agent, or employee by whom it was committed from his office, agency, or employment, and shall by registered mail

notify such officer, agent, or employee and the appropriate State or local agency, school, or educational institution of such determination. If in any case the Administrator finds that such officer, agent, or employee has not been removed from his office or employment within thirty days after notice of a determination by the Administrator that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any school or educational institution in such State, the Administrator shall make and certify to the appropriate Federal agency an order requiring it to withhold from its loans or grants, or to diminish the tax exempted to the State or local agency or school or educational institution to which such notification was given an amount equal to two years' compensation at the rate such officer, agent, or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State or local agency, school, or educational institution which receives loans or grants or tax exemption from any Federal agency, such order shall require the withholding of such amount from such other State or local agency, school, or educational institution.

(b) Any party aggrieved by any determination or order under section 272 (a), including any persons allegedly injured by the alleged discrimination or segregation may within thirty days after the determination or order institute proceedings for the review thereof by filing a written petition in the United States Court of Appeals for the District of Columbia. A copy of such petition shall be forthwith served upon the Administrator and thereupon the aggrieved party shall file in the court a transcript of the entire record of the proceeding, certified by the Administrator, including the complete testimony upon which the order complained of was entered and the findings and order of the Administrator. Thereupon the Court shall have jurisdiction of the proceedings and of the question determined thereunder and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Administrator. The findings of the Administrator with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(c) The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Administrator's order.

SEC. 273 If any officer, agent, or employee of the United States or of any Territory or of the District of Columbia or of any corporation whose stock is owned in whole or in part by the United States or of any State or local agency concerned with the maintenance, operation, or direction of any school or educational institution, or any officer, agent, or employee of any school or educational institution which receives any Federal funds or any Federal tax exemption in connection with its educational activities shall discriminate or segregate contrary to the provisions of section 271, he shall be fined not more than $5,000 and imprisoned not more than one year.

SEC. 274. Any person who shall be injured by reason of anything forbidden in this title may sue therefore in the District Court of the United States in the district in which the defendant resides or is found or has an agent without respect to the amount in controversy and shall recover threefold the damages by him sustained and the cost of the suit including a reasonable attorneys fee.

SEC. 275. The several district courts of the United States are vested with jurisdiction to prevent and restrain violations of this title and it shall be the duty of the several district attorneys of the United States in their respective districts and of the Civil Rights Division under the direction of the Attorney General to institute proceedings in equity to prevent and restrain such violations or to associate themselves with an action in equity instituted by a party aggrieved.

SEC. 276. This title shall not apply to religious discrimination or segregation by any institutions chartered or licensed to further or perpetuate the religious ideas of any religion.

SEC. 277. The Administrator of the Federal Security Agency shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this Act. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act

[H. R. 51, 84th Cong., 1st sess.]

A BILL To protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That the Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination or segregation based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—FOR THE BETTER ASSURANCE OF THE PROTECTION OF CITIZENS OF THE UNITED STATES AND OTHER PERSONS WITHIN THE SEVERAL STATES FROM MOB VIOLENCE AND LYNCHING, AND FOR OTHER PURPOSES

SEC. 101. The provisions of this title are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment to the Constitution of the United States and for the purpose of better assuring by the several States under said amendment equal protection and due process of law to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

SEC. 102. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, religion, color, national origin, ancestry, or language, or (b) exercise or attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected, of, charged with, or convicted of the commission of any criminal offense, with the purpose or conse-

quence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shal constitute a lynch mob within the meaning of this title. Any such violence by a lynch mob shall constitute lynching within the meaning of this title.

PUNISHMENT FOR LYNCHING

SEC. 103. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 104. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 105. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title.

COMPENSATION FOR VICTIMS OF LYNCHING

SEC. 106. (1) Every governmental subdivision of a State to which the State shall have delegated functions of police shall be responsible for any lynching occurring within its territorial jurisdiction. Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynching or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person, or to his or her next of kin if such injury results in death, for a sum of not less than $2,000 and not more than $10,000 as monetary compensation for such injury or death: *Provided, however*, That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further*, That the satisfaction of judgment against one governmental subdivision responsible for a lynching shall bar further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(2) Liability arising under this section may be enforced and the compensation herein provided for may be recovered in a civil action in the United States district court for the judicial district of which the defendant governmental subdivision is a part. Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose of this title the next of kin of a deceased victim of lynching shall be determined according to the laws of intestate distribution in the State of domicile of the decedent. Any judgment or award under this title shall be exempt from all claims of creditors.

(3) Any judge of the United States district court for the judicial district wherein any suit shall be instituted under the provisions of this title may by order direct that such suit be tried in any place in such district as he may designate in such order: *Provided*, That no such suit shall be tried within the territorial limits of the defendant governmental division.

SEC. 107. The crime defined in and punishable under the Act of June 22, 1932 (47 Stat. 326), as amended by the Act of May 18, 1934 (48 Stat. 781), shall include the transportation in interestate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

SHORT TITLE

SEC. 108. This title may be cited as the "Federal Anti-Lynching Act."

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under

this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdicion of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"SEC 1583 Whoever holds or kidnaps or carries away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both."

PROTECTION OF RIGHTS TO POLITICAL PARTICIPATION

SEC. 211 Title 18, United States Code, section 594, is amended to read as follows:

"SEC 594 Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other persons for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct

or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222 It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

TITLE III—TO PROHIBIT DISCRIMINATION IN EMPLOYMENT, BECAUSE OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR ANCESTRY

SHORT TITLE

SEC. 301. This title may be cited as the "National Act Against Discrimination in Employment."

FINDINGS AND DECLARATION OF POLICY

SEC. 302. (a) The Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) It is hereby declared to be the policy of the United States to protect the right recognized and declared in subdivision (b) hereof and to eliminate all such discrimination to the fullest extent permitted by the Constitution. This title shall be construed to effectuate such policy.

DEFINITIONS

SEC. 303. As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly.

(c) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment.

(d) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory; or between points in the same State but through any point outside thereof.

(e) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(f) The term "Commission" means the National Commission Against Discrimination in Employment, created by section 306 hereof.

EXEMPTIONS

SEC. 304. This Act shall not apply to any State or municipality or political subdivision thereof, or to any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than labor organizations.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 305. (a) It shall be an unlawful employment practice for an employer—

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

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, religion, color, national origin, or ancestry.

(c) It shall be an unlawful employment practice for any employer or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE NATIONAL COMMISSION AGAINST DISCRIMINATION IN EMPLOYMENT

SEC. 306. (a) There is hereby created a commission to be known as the National Commission Against Discrimination in Employment, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $10,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent designated to conduct a proceeding or a hearing shall be a resident of the Federal judicial circuit, as defined in sections 116 and 308 of the Judicial Code, as amended (U. S. C. Annotated, title 28, secs. 211 and 450), within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint such agents and employees at it deems necessary to assist it in the performance of its functions;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this title, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizen residents of the area for which they are appointed, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 307. (a) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of a Commission, that any person subject to the title has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during such endeavors may be used as evidence in any subsequent proceeding.

(b) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this title, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(c) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(d) At the conclusion of a hearing before a member or designated agent of the Commission the entire record thereof shall be transferred to the Commission, which shall designate three of its qualified members to sit as the Commission and to hear on such record the parties at a time and place to be specified upon reasonable notice.

(e) All testimony shall be taken under oath

(f) The respondent shall have the right to file a verified answer to such written charge and to apppear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(g) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(h) Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(i) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the title. If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint.

(j) Under a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(k) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act, Public Law 404, Seventy-ninth Congress, June 11, 1946.

JUDICIAL REVIEW

SEC. 308. (a) The Commission shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia) or, if the circuit court of appeals to which application might be made is in vaction, any district court of the United States (including the Supreme Court of the District of Columbia) within any circuit wherein the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10c and 10e of the Administrative Procedure Act.

(b) Upon such filing, the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commissioner, its member, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals, if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioner or the Commission such temporary relief or restraining order as it deems just and proper and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by sections 10a and 10b of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this

section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INVESTIGATORY POWERS

SEC. 309. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(d) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court of the United States, or the United States courts of any Territory or possesion, or the Supreme Court of the District of Columbia, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him many tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES

SEC. 310. The provisions of section 308 shall not apply with respect to an order of the Commission under section 307 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders. The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding ay State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 311. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Commission setting forth excerpts of the title and such other relevant information which the Commission deems appropriate to effectuate the purposes of the title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

VETERANS' PREFERENCE

SEC. 312. Nothing contained in this title shall be construed to repeal or modify any Federal or State law creating special rights or preferences for veterans.

RULES AND REGULATIONS

SEC. 313. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of passage of such concurrent resolution nor shall any regulation or amendment having the same effect as that concerning which the concurrent resolution was passed be issued thereafter by the Commission.

(b) Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 314. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this title, or because of such performance, shall be punished by a fine of not more than $500 or by imprisonment for not more than one year, or by both.

TITLE IV—TO PROHIBIT DISCRIMINATION OR SEGREGATION IN THE ARMED SERVICES

SEC. 401. Notwithstanding the provisions of any other law there shall be no discrimination against or segregation of any person in the armed services of the United States, or the units thereof, or the reserve components thereof, by reason of the race, religion, color, or national origin of such person.

TITLE V—TO ELIMINATE SEGREGATION AND DISCRIMINATION IN OPPORTUNITIES FOR HIGHER AND OTHER EDUCATION

SEC. 501. This title may be cited as the "Educational Opportunities Act of 1952."

FINDINGS AND DECLARATION OF POLICY

SEC. 502. The Congress hereby finds and declares that the American idea of equality of opportunity requires that students otherwise qualified be admitted to educational institutions without regard to race, color, religion, or national origin, except that with regard to religious or denominational educational institutions, students otherwise qualified shall have the equal opportunity to attend therein without discrimination because of race, color, or national origin, it being recognized as a fundamental right for members of various religion faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to advocate the religious principles in furtherance of which they are maintained and nothing herein contained shall impair or abridge that right.

DEFINITIONS

SEC. 503. As used in this Title—

(a) "Educational institution" means any educational institution of post-secondary grade subject to the visitation, examination, or inspection by the appropriate State agency supervising education within each State.

(b) "Religious or denominational educational institution" means an educational institution which is operated, supervised, or controlled by a religious or denominational organization and which has certified to the appropriate State commissioner of education, or official performing similar duties, that it is a religious or denominational educational institution.

UNFAIR EDUCATIONAL PRACTICES

SEC. 504. (a) It shall be an unfair educational practice for an educational institution—

(1) to exclude, limit, or otherwise discriminate against any person or persons seeking admission as students to such institution because of race,

religion, color, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination, or from giving preference in such selection to such members, or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained; and

(2) to penalize any individual because he has initiated, testified, participated, or assisted in any proceedings under this title.

(b) It shall not be an unfair educational practice for any educational institution to use criteria other than race, religion, color, or national origin in the admission of students.

CERTIFICATION OF RELIGIOUS AND DENOMINATIONAL INSTITUTIONS

SEC. 505. An educational institution operated, supervised, or controlled by a religious or denominational organization may, through its chief executive officer, certify in writing to the Commissioner of Education (hereinafter referred to as the "Commissioner") that it is so operated, controlled, or supervised, and that it elects to be considered a religious or denominational educational institution, and it thereupon shall be deemed such an institution for the purposes of this section.

PROCEDURE

SEC. 506. (a) Any person seeking admission as a student, who claims to be aggrieved by an alleged unfair educational practice (hereinafter referred to as the "petitioner"), may himself, or by his parent, or guardian, make, sign, and file with the Commissioner a verified petition which shall set forth the particulars thereof and contain such other information as may be required by the Commissioner The Commissioner shall thereupon cause an investigation to be made in connection therewith; and after such investigation if he shall determine that probable cause exists for crediting the allegations of the petition, he shall attempt by informal methods of persuasion, conciliation, or mediation to induce the elimination of such alleged unfair educational practice.

(b) Where the Commissioner has reason to believe that an applicant or applicants have been discriminated against, except that preferential selection by religious or denominational institutions of students of their own religion or denomination shall not be considered an act of discrimination, he may initiate an investigation on his own motion.

(c) The Commissioner shall not disclose what takes place during such informal efforts at persuasion, conciliation, or mediation, nor shall he offer in evidence in any proceeding the facts adduced in such informal efforts.

(d) A petition pursuant to this section must be filed with the Commissioner within one year after the alleged unfair educational practice was committed.

(e) If such informal methods fail to induce the elimination of an alleged unfair educational practice, the Commissioner shall issue and cause to be served upon such institution, hereinafter called the respondent, a complaint setting forth the alleged unfair educational practice charged and a notice of hearing before the Commissioner, or his designated representative, at a place therein fixed to be held not less than twenty days after the service of said complaint. Any complaint issued pursuant to this section must be issued within two years after the alleged unfair educational practice was committed.

(f) The respondent shall have the right to answer the original and any amended complaint and to appear at such hearing by counsel, present evidence, and examine and cross-examine witnesses.

(g) (1) For the purpose of all investigations, proceedings, or hearings which the Commissioner deems necessary or proper for the exercise of the powers vested in him by this title, the Commissioner, or his designated representative, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commissioner, or his designated representative, conducting such investigation, proceeding, or hearing.

(2) The Commissioner, or the representative designated by the Commissioner for such purposes, may administer oaths, examine witnesses, and receive evidence.

(3) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(4) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court of the United States as constituted by chapter 5, title 28, United States Code (28 U S. C. 81 and the following), or the United States court of any Territory or other place subject to the jurisdiction of the United States, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commissioner, shall have jurisdiction to issue to such person an order requiring him to appear before the Commissioner, or his designated representative, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing

(5) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commissioner on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(h) After the hearing is completed the Commissioner shall file an intermediate report which shall contain his findings of fact and conclusions upon the issues in the proceeding. A copy of such report shall be served on the parties to the proceeding Any such party within twenty days thereafter may file with the Commissioner exceptions to the findings of fact and conclusions, with a brief in support thereof, or may file a brief in support of such findings of fact and conclusions.

(i) If, upon all the evidence, the Commissioner shall determine that the respondent has engaged in an unfair educational practice, the Commisioner shall state his findings of fact and conclusions and shall issue and cause to be served upon such respondent a copy of such findings and conclusions and an order terminating, at the conclusion of the applicable school year, all programs of Federal aid of which such respondent is the beneficiary.

(j) If, upon all the evidence, the Commisioner shall find that a respondent has not engaged in any unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served on the petitioner and respondent a copy of such findings and conclusions, and an order dismissing the complaint as to such respondent.

JUDICIAL REVIEW

SEC. 507. (a) Any respondent aggrieved by a final order of the Commissioner may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unfair educational practice in question was alleged to have been engaged in or wherein such respondent is located, by filing in such court a written petition praying that the order of the Commissioner be modified or set aside. A copy of such petition shall be forthwith served upon the Commissioner and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commissioner, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commissioner.

(b) Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act; and shall have jurisdiction of the proceeding and of the questions determined therein and shall have the power to grant such temporary relief or restraining order as its deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commissioner.

(c) No objection that has not been urged before the Commissioner, or his representative, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commissioner, or his representa-

tive, the court may order such additional evidence to be taken before the Commissioner, or his representative, and to be made a part of the transcript.

(e) The Commissioner may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(g) The commencement of proceedings under subsection (a) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commissioner's order.

MISCELLANEOUS PROVISIONS

SEC. 508. This title shall take effect at the beginning of the semester or academic year, as the case may be, following its enactment for each educational institution to which it is applicable.

AMENDMENTS TO PUBLIC LAWS 874 AND 815 (81ST CONGRESS)

SEC. 509 Section 8 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended, is hereby further amended by adding a new subsection "(e)" to read as follows:

"(e) In carrying out his functions under this Act the Commissioner shall not make any payments or certify for any payments any local educational agency which discriminates among pupils or prospective pupils by reason of their race, religion, color, or national origin or segregates pupils or prospective pupils by virtue thereof."

SEC. 510. The Act of September 23, 1950 (Public Law 815, Eighty-first Congress), as amended, is hereby further amended by inserting in subsection (a) of section 207, after the finding numbered (3) thereof, the following: ", or (4) that there is discrimination or segregation among pupils or prospective pupils by reason of race, religion, color, or national origin."

TITLE VI—MAKING UNLAWFUL THE REQUIREMENT FOR THE PAYMENT OF A POLL TAX AS A PREREQUISITE TO VOTING IN A PRIMARY OR OTHER ELECTION FOR NATIONAL OFFICERS

SEC. 601. This title may be cited as the "Federal Anti-Poll-Tax Act".

SEC. 602. The requirement that a poll tax be paid as a prerequisite to voting or registering to vote at primaries or other elections for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, is not and shall not be deemed a qualification of voters or electors voting or registering to vote at primaries or other elections for said officers, within the meaning of the Constitution, but is and shall be deemed an interference with the manner of holding primaries and other elections for said national officers and a tax upon the right or privilege of voting for said national officers and an impairment of the republican form of government.

SEC. 603. It shall be unlawful for any State, municipality, or other government or governmental subdivision to prevent any person from voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, on the ground that such person has not paid a poll tax, and any such requirement shall be invalid and void insofar as it purports to disqualify any person otherwise qualified to vote in such primary or other election. No State, municipality, or other government or governmental subdivision shall levy a poll tax or any other tax on the right or privilege of voting in such primary or other election, and any such tax shall be invalid and void insofar as it purports to disqualify any person otherwise qualified from voting at such primary or other election.

SEC. 604. It shall be unlawful for any State, municipality, or other government or governmental subdivision to interfere with the manner of selecting persons for national office by requiring the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member

of the House of Representatives, and any such requirement shall be invalid and void.

SEC. 605. It shall be unlawful for any person, whether or not acting under the cover of authority of the laws of any State, municipality, or other government or governmental subdivision, to require the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives.

SEC. 606. For the purposes of this title, the payment, levying, or requirement of a poll tax shall be construed to include any charge of any kind upon the right to vote or to register for voting, in any form or evidence of liability to a poll tax or to any other charge upon the right to vote or to register for voting.

TITLE VII—TO PROHIBIT SEGREGATION AND DISCRIMINATION IN HOUSING BECAUSE OF RACE, RELIGION, COLOR, OR NATIONAL ORIGIN

SEC. 701. Notwithstanding the provisions of any other law—

(1) No home mortgage shall be insured or guaranteed by the United States or any agency thereof, or by any United States Government corporation, unless the mortgagor certifies under oath that in selecting purchasers or tenants for any property covered by the mortgage he will not discriminate against any person or family by reason of race, color, religion, or national origin, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the appropriate authority responsible for such insurance; and

(2) In the administration of the National Housing Act, as amended, the Federal Home Loan Bank Act, as amended, the United States Housing Act of 1937, as amended, the Housing Acts of 1949 and 1950, as amended, the Act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes", approved October 14, 1940, as amended, and the Servicemen's Readjustment Act of 1944, as amended, it shall be the policy of the United States that there shall be no discrimination affecting any tenant, owner, borrower, or recipient or beneficiary of a mortgage guaranty by reason of race, color, religion, or national origin, or segregation by virtue thereof; nor shall there be any discrimination or segregation by reason of race, color, religion, or national origin in the provision, operation, and maintenance of community facilities or housing under the provisions of the Defense Housing and Community Facilities and Services Act of 1951.

TITLE VIII—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 801. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 802. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect

civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 803. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize the services of voluntary and uncompensated personnel and to pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

(c) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 811. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 812. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 821. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. Not more than four members on the Joint Committee in the Senate and House of Representatives, respectively, shall belong to one political party.

SEC. 822. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 823. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 824. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures,

as, in its discretion, it deems necessary and advisable. The cost of stenographic service to report hearings of the Joint Committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words.

SEC. 825. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 826. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

[H. R. 702, 84th Cong., 1st sess.]

A BILL To protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution. and that it is the national policy to protect the right of the individual to be free from discrimination or segregation based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To prmote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—FOR THE BETTER ASSURANCE OF THE PROTECTION OF CITIZENS OF THE UNITED STATES AND OTHER PERSONS WITHIN THE SEVERAL STATES FROM MOB VIOLENCE AND LYNCHING, AND FOR OTHER PURPOSES

SEC. 101. The provisions of this title are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment to the Constitution of the United States and for the purpose of better assuring by the several States under said amendment equal protection and due process of law to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

SEC. 102. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, religion, color, national origin, ancestry, or language, or (b) exercise ar attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this title. Any such violence by a lynch mob shall constitute lynching within the meaning of this title.

PUNISHING FOR LYNCHING

SEC. 103. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 104. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lyncing, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, any any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 105. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title.

COMPENSATION FOR VICTIMS OF LYNCHING

SEC. 106. (1) Every governmental subdivision of a State to which the State shall have delegated functions of police shall be responsible for any lynching occurring within its territorial jurisdiction. Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynchings or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person, or to his or her next

of kin if such injury results in death, for a sum of not less than $2,000 and not more than $10,000 as monetary compensation for such injury or death: *Provided, however*, That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further*, That the satisfaction of judgment against one governmental subdivision responsible for a lynching shall bar further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(2) Liability arising under this section may be enforced and the compensation herein provided for may be recovered in a civil action in the United States district court for the judicial district of which the defendant governmental subdivision is a part. Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose of this title the next of kin of a deceased victim of lynching shall be determined according to the laws of intestate distribution in the State of domicile of the decedent. Any judgment or award under this title shall be exempt from all claims of creditors.

(3) Any judge of the United States district court for the judicial district wherein any suit shall be instituted under the provisions of this title may by order direct that such suit be tried in any place in such district as he may designate in such order: *Provided*, That no such suit shall be tried within the territorial limits of the defendant governmental subdivision.

SEC. 107. The crime defined in and punishable under the Act of June 22, 1932 (47 Stat. 326), as amended by the Act of May 18, 1934 (48 Stat. 781), shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

SHORT TITLE

SEC. 108. This title may be cited as the "Federal Anti-Lynching Act."

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000

or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restrain of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both."

PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PROHIBITION AGAINST DISCRIMINATION OF SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any

Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

TITLE III—TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BECAUSE OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR ANCESTRY

SHORT TITLE

SEC. 301. This title may be cited as the "National Act Against Discrimination in Employment."

FINDINGS AND DECLARATION OF POLICY

SEC. 302 (a) The Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is hereby recognized as and declared to be liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) It is hereby declared to be the policy of the United States to protect the right recognized and declared in subdivision (b) hereof and to eliminate all such discrimination to the fullest extent permitted by the Constitution. This title shall be construed to effectuate such policy.

DEFINITIONS

SEC. 303. As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States or of any Territory or possession thereof,

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly.

(c) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment.

(d) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory; or between points in the same State but through any point outside thereof.

(e) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(f) The term "Commission" means that National Commission Against Discrimination in Employment, created by section 306 hereof.

EXEMPTIONS

SEC. 304. This Act shall not apply to any State or municipality or political subdivision thereof, or to any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than labor organizations.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 305. (a) It shall be unlawful employment practice for an employer—

(1) to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employ-

ment, because of such individual's race, religion, color, national origin, or ancestry;

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, religion, color, national origin, or ancestry.

(c) It shall be an unlawful employment practice for any employer or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE NATIONAL COMMISSION AGAINST DISCRIMINATION IN EMPLOYMENT

SEC. 306. (a) There is hereby created a commission to be known as the National Commission Against Discrimination in Employment, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $10,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent designated to conduct a proceeding or a hearing shall be a resident of the Federal judicial circuit, as defined in sections 116 and 308 of the Judicial Code, as amended (U. S. C. Annotated, title 28, secs. 211 and 450), within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint such agents and employees as it deems necessary to assist it in the performance of its functions;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of

this title, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this title, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizen residents of the area for which they are appointed, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the Commission may make provision for technical and clerical assistance to such councils and for the expense of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 307. (a) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the title has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during such endeavors may be used as evidence in any subsequent proceeding.

(b) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this title, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(c) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(d) At the conclusion of a hearing before a member or designated agent of the Commission the entire record thereof shall be transferred to the Commission, which shall designate three of its qualified members to sit as the Commission and to hear on such record the parties at a time and place to be specified upon reasonable notice.

(e) All testimony shall be taken under oath.

(f) The respondent shall have the right to file a verified answer to such written charge and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(g) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(h) Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(i) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the title. If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint.

(j) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable

notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(k) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act, Public Law 404, Seventy-ninth Congress, June 11, 1946.

JUDICIAL REVIEW

SEC. 308. (a) The Commission shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia) or, if the circuit court of appeals to which application might be made is in vacation, any district court of the United States (including the Supreme Court of the District of Columbia) within any circuit where in the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10c and 10e of the Administrative Procedure Act.

(b) Upon such filing, the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals, if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioner or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limita-

tions established by sections 10a and 10b of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commision's order.

INVESTIGATORY POWERS

SEC. 309. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(d) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court of the United States, or the United States courts of any Territory or possession, or the Supreme Court of the District of Columbia, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty of forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, or testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES

SEC. 310. The provisions of section 308 shall not apply with respect to an order of the Commission under section 307 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders. The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 311. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Commission setting forth excerpts of the title and such other relevant information which the Commission deems appropriate to effectuate the purposes of the title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

VETERANS' PREFERENCE

SEC. 312. Nothing contained in this title shall be construed to repeal or modify any Federal or State law creating special rights or preferences for veterans.

RULES AND REGULATIONS

SEC. 313. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution nor shall any regulation or amendment having the same effect as that concerning which the concurrent resolution was passed be issued thereafter by the Commission.

(b) Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 314. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this title, or because of such performance, shall be punished by a fine of not more than $500 or by imprisonment for not more than one year, or by both.

TITLE IV—TO PROHIBIT DISCRIMINATION OR SEGREGATION IN THE ARMED SERVICES

SEC. 401. Notwithstanding the provisions of any other law there shall be no discrimination against or segregation of any person in the armed services of the United States, or the units thereof, or the reserve components thereof, by reason of the race, religion, color, or national origin of such person.

TITLE V—TO ELIMINATE SEGREGATION AND DISCRIMINATION IN OPPORTUNITIES FOR HIGHER AND OTHER EDUCATION

SEC. 501. This title may be cited as the "Educational Opportunities Act of 1952."

FINDINGS AND DECLARATION OF POLICY

SEC. 502. The Congress hereby finds and declares that the American idea of equality of opportunity requires that students otherwise qualified be admitted to educational institutions without regard to race, color, religion, or national origin, except that with regard to religious or denominational education institutions, students otherwise qualified shall have the equal opportunity to attend therein without discrimination because of race, color, or national origin, it being recognized as a fundamental right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to advocate the religious principles in furtherance of which they are maintained and nothing herein contained shall impair or abridge that right.

DEFINITIONS

SEC. 503. As used in this title—

(a) "Educational institution" means any educational institution of postsecondary grade subject to the visitation, examination, or inspection by the appropriate State agency supervising education within each State.

(b) "Religious or denominational educational institution" means an educational institution which is operated, supervised, or controlled by a religious or denominational organization and which has certified to the appropriate State commissioner of education, or official performing similar duties, that it is a religious or denominational educational institution.

UNFAIR EDUCATIONAL PRACTICES

SEC. 504. (a) It shall be an unfair educational practice for an educational institution—

(1) to exclude, limit, or otherwise discriminate against any person or persons seeking admission as students to such institution because of race, religion, color, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination, or from giving preference in such selection to such members, or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained; and

(2) to penalize any individual because he has initiated, testified, participated, or assisted in any proceedings under this title.

(b) It shall not be an unfair educational practice for any educational institution to use criteria other than race, religion, color, or national origin in the admission of students.

CERTIFICATION OF RELIGIOUS AND DENOMINATIONAL INSTITUTIONS

SEC. 505. An educational institution operated, supervised, or controlled by a religious or denominational organization may, through its chief executive officer, certify in writing to the Commissioner of Education (hereinafter referred to as the "Commissioner") that it is so operated, controlled, or supervised, and that it elects to be considered a religious or denominational educational institution, and it thereupon shall be deemed such an institution for the purposes of this section.

PROCEDURE

SEC. 506. (a) Any person seeking admission as a student, who claims to be aggrieved by an alleged unfair educational practice (hereinafter referred to as the "petitioner"), may himself, or by his parent, or guardian, make, sign, and file with the Commissioner a verified petition which shall set forth the particulars thereof and contain such other information as may be required by the Commissioner. The Commissioner shall thereupon cause an investigation to be made in connection therewith; and after such investigation if he shall determine that probable cause exists for crediting the allegations of the petition, he shall attempt by informal methods of persuasion, conciliation, or mediation to induce the elimination of such alleged unfair educational practice.

(b) Where the Commissioner has reason to believe that an applicant or applicants have been discriminated against, except that preferential selection by religious or denominational institutions of students of their own religion or denomination shall not be considered an act of discrimination, he may initiate an investigation on his own motion.

(c) The Commissioner shall not disclose what takes place during such informal efforts at persuasion, conciliation, or mediation, nor shall he offer in evidence in any proceeding the facts adduced in such informal efforts.

(d) A petition pursuant to this section must be filed with the Commissioner within one year after the alleged unfair educational practice was committed.

(e) If such informal methods fail to induce the elimination of an alleged unfair educational practice, the Commissioner shall issue and cause to be served upon such institution, hereinafter called the respondent, a complaint setting forth the alleged unfair educational practice charged and a notice of hearing before the Commissioner, or his designated representative, at a place therein fixed to be held not less than twenty days after the service of said complaint. Any complaint issued pursuant to this section must be issued within two years after the alleged unfair educational practice was committed.

(f) The respondent shall have the right to answer the original and any amended complaint and to appear at such hearing by counsel, present evidence, and examine and cross-examine witnesses.

(g) (1) For the purpose of all investigations, proceedings, or hearings which the Commissioner deems necessary or proper for the exercise of the powers vested in him by this title, the Commissioner, or his designated representative, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commissioner, or his designated representative, conducting such investigation, proceeding, or hearing.

(2) The Commissioner, or the representative designated by the Commissioner for such purposes, may administer oaths, examine witnesses, and receive evidence.

(3) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(4) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court of the United States, as constituted by chapter 5, title 28, United States Code (28 U. S. C. 81 and the following), or the United States court of any Territory or other place subject to the jurisdiction of the United States, within the jurisdiction of which the investigaion, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commissioner, shall have jurisdiction to issue to such person an order requiring him to appear before the Commissioner, or his designated representative, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(5) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commissioner on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he his compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(h) After the hearing is completed the Commissioner shall file an intermediate report which shall contain his findings of fact and conclusions upon the issues in the proceeding. A copy of such report shall be served on the parties to the proceeding. Any such party within twenty days thereafter may file with the Commissioner exceptions to the findings of fact and conclusions, with a brief in support thereof, or may file a brief in support of such finding of fact and conclusions.

(i) If, upon all the evidence, the Commissioner shall determine that the respondent has engaged in an unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served upon such respondent a copy of such findings and conclusions and an order terminating, at the conclusion of the applicable school year, all progams of Federal aid of which such respondent is the beneficiary.

(j) If, upon all the evidence, the Commissioner shall find that a respondent has not engaged in any unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served on the petitioner and respondent a copy of such findings and conclusions, and a order dismissing the complaint as to such respondent.

JUDICIAL REVIEW

SEC. 507. (a) Any respondent aggrieved by a final order of the Commisioner may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unfair educational practice in question was alleged to have been engaged in or wherein such respondent is located, by filing in such court a written petition praying that the order of the Commissioner be modified or set aside. A copy of such petition shall be forthwith served upon the Commissioner and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commissioner, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commissioner.

(b) Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act; and shall have jurisdiction of the proceeding and of the questions determined therein and shall have the power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commissioner.

(c) No objection that has not been urged before the Commissioner, or his representative, shall be considered by the court, unless the failure or neglect to urge such objections shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commissioner, or his representative, the court may order such additional evidence to be taken before the Commissioner, or his representative, and to be made a part of the transcript.

(e) The Commissioner may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(g) The commencement of proceedings under subsection (a) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commissioner's order.

MISCELLANEOUS PROVISIONS

SEC. 508. This title shall take effect at the beginning of the semester or academic year, as the case may be, following its enactment for each education institution to which it is applicable.

AMENDMENTS TO PUBLIC LAWS 874 AND 815 (81ST CONGRESS)

SEC. 509. Section 8 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended, is hereby further amended by adding a new subsection "(e)" to read as follows:

"(e) In carrying out his functions under this Act the Commissioner shall not make any payments or certify for any payments any local educational agency which discriminates among pupils or prospective pupils by reason of their race, religion, color, or national origin or segregates pupils or prospective pupils by virtue thereof."

SEC. 510. The Act of September 23, 1950 (Public Law 815, Eighty-first Congress), as amended, is hereby further amended by inserting in subsection (a) of section 207, after the finding numbered (3) thereof, the following: ", or (4) that there is discrimination or segregation among pupils or prospective pupils by reason of race, religion, color, or national origin."

TITLE VI—MAKING UNLAWFUL THE REQUIREMENT FOR THE PAYMENT OF A POLL TAX AS A PREREQUISITE TO VOTING IN A PRIMARY OR OTHER ELECTION FOR NATIONAL OFFICERS

SEC. 601. This title may be cited as the "Federal Anti-Poll-Tax Act."

SEC. 602. The requirement that a poll tax be paid as a prerequisite to voting or registering to vote at primaries or other elections for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, is not and shall not be deemed a qualification of voters or electors voting or registering to vote at primaries or other elections for said officers, within the meaning of the Constitution, but is and shall be deemed an interference with the manner of holding primaries and other elections for said national officers and a tax upon the right or privilege of voting for said national officers and an impairment of the republican form of government.

SEC. 603. It shall be unlawful for any State, municipality, or other government or governmental subdivision to prevent any person from voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, on the ground that such person has not paid a poll tax, and any such requirement shall be invalid and void insofar as it purports to disqualify any person otherwise qualified to vote in such primary or other election. No State, municipality, or other government or governmental subdivision shall levy a poll tax or any other tax on the right or privilege of voting in such primary or other

election, and any such tax shall be invalid and void insofar as it purports to disqualify any person otherwise qualified from voting at such primary or other election.

SEC. 604. It shall be unlawful for any State, municipality, or other government or governmental subdivision to interfere with the manner of selecting persons for national office by requiring the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, and any such requirement shall be invalid and void.

SEC. 605. It shall be unlawful for any person, whether or not acting under the cover of authority of the laws of any State, municipality, or other government or governmental subdivision, to require the payment of a poll tax as a prerequisite for voting or registering to vote in any primary or other election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives.

SEC. 606. For the purposes of this title, the payment, levying, or requirement of a poll tax shall be construed to include any charge of any kind upon the right to vote or to register for voting, in any form or evidence of liability to a poll tax or to any other charge upon the right to vote or to register for voting.

TITLE VII—TO PROHIBIT SEGREGATION AND DISCRIMINATION IN HOUSING BECAUSE OF RACE, RELIGION, COLOR, OR NATIONAL ORIGIN

SEC. 701. Notwithstanding the provisions of any other law—

(1) No home mortgage shall be insured or guaranteed by the United States or any agency thereof, or by any United States Government corporation, unless the mortgagor certifies under oath that in selecting purchasers or tenants for any property covered by the mortgage he will not discriminate against any person or family by reason of race, color, religion, or national origin, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the appropriate authority responsible for such insurance; and

(2) In the administration of the National Housing Act, as amended, the Federal Home Loan Bank Act, as amended, the United States Housing Act of 1937, as amended, the Housing Acts of 1949 and 1950, as amended, the Act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes", approved October 14, 1940, as amended, and the Servicemen's Readjustment Act of 1944, as amended, it shall be the policy of the United States that there shall be no discrimination affecting any tenant, owner, borrower, or recipient or beneficiary of a mortgage guaranty by reason of race, color, religion, or national origin, or segregation by virtue thereof; nor shall there be any discrimination or segregation by reason of race, color, religion, or national origin in the provision, operation, and maintenance of community facilities or housing under the provisions of the Defense Housing and Community Facilities and Services Act of 1951.

TITLE VIII—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 801. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 802. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 803. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize services of voluntary and uncompensated personnel and to pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

(c) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 811. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 812. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 821. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. Not more than four members on the Joint Committee in the Senate and House of Representatives, respectively, shall belong to one political party.

SEC. 822. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 823. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 824. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and

to take such testimony as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures, as, in its discretion, it deems necessary and advisable. The cost of stenographic service to report hearings of the Joint Committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words.

SEC. 825. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 826. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

[H R. 259, 84th Cong., 1st sess.]

A BILL To provide protection of persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act."

SEC. 2. The Congress finds as fact that the succeeding provisions of this Act are necessary—

(a) to insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution;

(b) to safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials;

(c) to promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

SEC. 3. It is hereby declared that the right to be free from lynching is a right of all persons within the jurisdiction of the United States. Such right is in addition to any similar rights they may have as citizens of any of the several States or as persons within their jurisdiciton.

SEC. 4. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, color, religion, or national origin, or (b) exercise or attempt to exercise, by physical violence against person or property, any power of correction or punishment over any person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this Act. Any such violence or attempt by a lynch mob shall constitute lynching within the meaning of this Act.

SEC. 5. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the wrongful conduct herein results in death or maiming, or damage to property as amounts to an infamous crime under applicable State or Territorial law. An infamous crime, for the purposes of this section, shall be deemed one which

under applicable State or Territorial law is punishable by imprisonment for more than one year.

SEC. 6. (a) Whenever a lynching shall occur, any peace officer of a State or any governmental subdivision thereof, who shall have been charged with the duty, or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

(b) Whenever a lynching shall occur in any Territory, possession, District of Columbia, or in any other area in which the United States shall exercise exclusive criminal jurisdiction, any peace officer of the United States or of such Territory, possession, District, or area, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

SEC. 7. For the purposes of this Act, the term "peace officer" shall include those officers, their deputies, and assistants who perform the functions of police personnel, sheriffs, constables, marshals, jailers, or jail wardens, by whatever nomenclature they are designated.

SEC. 8. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202, 10), shall include knowingly transporting, or causing to be transported, in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, or national origin, or for purposes of punishment, conviction, or intimidation.

SEC. 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3304, 84th Cong., 1st sess.]

A BILL For the better assurance of the protection of citizens of the United States and other persons within the several States from mob violence and lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment to the Constitution of the United States and for the purpose of better assuring by the several States under said amendment equal protection and due process of law to all persons charged with or suspected or convicted of any offense within their jurisdiction.

DEFINITIONS

SEC. 2. Any assemblage of two or more persons which shall, without authority of law (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by physical violence against the person, any power of correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of prevent-

ing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this Act. Any such violence by a lynch mob shall constitute lynching within the meaning of this act.

PUNISHMENT FOR LYNCHING

SEC. 3. Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC. 4. Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any members of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 5. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or person from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act.

COMPENSATION FOR VICTIMS OF LYNCHING

SEC. 6. (1) Every governmental subdivision of a State to which the State shall have delegated functions of police shall be responsible for any lynching occurring within its territorial jurisdiction. Every such governmental subdivision shall also be responsible for any lynching which follows upon the seizure and abduction of the victim or victims within its territorial jurisdiction, irrespective of whether such lynching occurs within its territorial jurisdiction or not. Any such governmental subdivision which shall fail to prevent any such lynching or any such seizure and abduction followed by lynching shall be liable to each individual who suffers injury to his or her person, or to his or her next of kin if such injury results in death, for a sum of not less than $2,000 and not more than $10,000 as monetary compensation for such injury or death: *Provided, however*, That the governmental subdivision may prove by a preponderance of evidence as an affirmative defense that the officers thereof charged with the duty of preserving the peace, and the citizens thereof, when called upon by any such officer, used all diligence and all powers vested in them for the protection of the person lynched: *And provided further*, That the satisfaction of judgment against one government subdivision responsible for a lynching shall bar further proceedings against any other governmental subdivision which may also be responsible for that lynching.

(2) Liability arising under this section may be enforced and the compensation herein provided for may be recovered in a civil action in the United States district court for the judcial district of which the defendant governmental subdivision is a part. Such action shall be brought and prosecuted by the Attorney General of the United States in the name of the United States for the use of the real party in interest, or, if the claimant or claimants shall so elect, by counsel employed by the claimant or claimants, but in any event without prepayment of costs. If the amount of any such judgment shall not be paid upon demand, payment thereof may be enforced by any process available under the State law for the enforcement of any other money judgment against such governmental subdivision. Any officer of such governmental subdivision or any other person who shall disobey or fail to comply with any lawful order or decree of the court for the enforcement of the judgment shall be guilty of contempt of that court and punished accordingly. The cause of action accruing hereunder to a person injured by lynching shall not abate with the subsequent death of that person before final judgment but shall survive to his or her next of kin. For the purpose of this Act the next of kin of a deceased victim of lynching shall be determined according to the laws of interstate distribution in the State of domicile of the decedent. Any judgment or award under this Act shall be exempt from all claims of creditors.

(3) Any judge of the United States district court for the judicial district where in any suit shall be instituted under the provisions of this Act may by order direct that such suit be tried in any place in such district as he may designate in such order: *Provided*, That no such suit shall be tried within the territorial limits of the defendant governmental subdivision.

SEC. 7. The crime defined in and punishable under section 1201 of title 18 of the United States Code shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation.

SEPARABILITY CLAUSE

SEC. 8. If any particular provision, sentence, or clause, or provisions, sentences, or clauses of this Act, or the application thereof to any particular person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SHORT TITLE

SEC. 9. This Act may be cited as the "Federal Antilynching Act."

[H. R. 3480, 84th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act."

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discriminaiton because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter, and the law of nations. As to citizens of the United States, such rights additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 5. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee," as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession, or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both: *Provided, however*, That where such lynching results in death or maiming or other serious physical or mental injury, or in a damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO KIDNAPING ACT

SEC. 9. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202), shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates sections 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3563, 84th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act."

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering

all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching it a right of all persons, whether or not citizens of the United States, who are within the

jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter and the law of nations. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 5. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee," as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both: *Provided, however,* That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and

(a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 9. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202) shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes places.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3575, 84th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act."

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims. It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the States makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

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(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the Democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundameintal freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

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B. The term "governmental officer or employee," as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

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PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail

to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lunching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 9. The crime defined in and punishable under the Act of June 22, 1932, as amended (18 U. S. C. 1201, 1202) shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates sections 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R 3578, 84th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act."

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

(a) Lynching is mob violence. It is violence which injures or kills its immediate victims It is also violence which may be used to terrorize the racial, national, or religious groups of which its victims are members, thereby hindering all members of those groups in the free exercise of the rights guaranteed them by the Constitution and laws of the United States.

(b) The duty required of each State, by the Constitution and laws of the United States, to refrain from depriving any person of life, liberty, or property without due process of law and from denying to any person within its jurisdiction the equal protection of the laws, imposes on all States the obligations to exercise their power in a manner which will—

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(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

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(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

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SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

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(b) The term "governmental officer or employee," as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession, or other area within the exclusive jurisdiction of the United States.

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PUNISHMENT FOR KNOWINGLY FAILING TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob, or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

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(1) any person who violates section 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which local police functions have been delegated and in which the lynching takes place; or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

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based in whole or in part on death or on physical or mental injury, the judgment shall not be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees.

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 5345, 84th Cong., 1st sess.]

A BILL To declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Antilynching Act."

FINDINGS AND POLICY

SEC. 2. The Congress hereby makes the following findings:

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When a State by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the State fails to fulfill one or both of the above obligations, and thus effectively deprives the victim of life, liberty, or property without due process of law, denies him the equal protection of the laws and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States. By permitting or condoning lynching, the State makes the lynching its own act and gives the color of State law to the acts of those guilty of the lynching.

(c) The duty required of the United States by the Constitution and laws of the United States to refrain from depriving any person of life, liberty, or property without due process of law, imposes upon it the obligations to exercise its power in all areas within its exclusive criminal jurisdiction in a manner which will—

(1) protect all persons from mob violence without discrimination because of race, creed, color, national origin, ancestry, language, or religion; and

(2) prevent the usurpation by mobs of the powers of correction or punishment which must be exercised exclusively by government and in accordance with the orderly processes of law.

When the United States by the malfeasance or nonfeasance of governmental officers or employees permits or condones lynching, the United States fails to

fulfill one or both of the above obligations and thus effectively deprives the victim of life, liberty, or property without due process of law, and prevents his full enjoyment of other rights guaranteed him by the Constitution and laws of the United States.

(d) Every lynching that occurs within the United States discredits this country among the nations of the world, and the resultant damage to the prestige of the United States has serious adverse effects upon good relations between the United States and other nations. The increasing importance of maintaining friendly relations among all nations renders it imperative that Congress permit no such acts within the United States which interfere with American foreign policy and weaken American leadership in the democratic cause.

(e) The United Nations Charter and the law of nations require that every person be secure against injury to himself or his property which is (1) inflicted by reason of his race, creed, color, national origin, ancestry, language, or religion, or (2) imposed in disregard of the orderly processes of law.

PURPOSES

SEC. 3. The Congress finds that the succeeding provisions of this Act are necessary in order to accomplish the following purposes:

(a) To insure the most complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(b) To safeguard the republican form of government of the several States from the lawless conduct of persons threatening to destroy the systems of public criminal justice therein and threatening to frustrate the functioning thereof through duly constituted officials.

(c) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the treaty obligations assumed by the United States under the United Nations Charter.

(d) To define and punish offenses against the law of nations.

RIGHT TO BE FREE OF LYNCHING

SEC. 4. It is hereby declared that the right to be free from lynching is a right of all persons, whether or not citizens of the United States, who are within the jurisdiction of the United States. As to all such persons, such right accrues by virtue of the provisions of the Constitution of the United States, the United Nations Charter and the law of nations. As to citizens of the United States, such right additionally accrues by virtue of such citizenship. Such right is in addition to the same or any similar right or rights they may have as persons within the jurisdiction of, or as citizens of, the several States, the District of Columbia, the Territories, possessions, or other areas within the exclusive jurisdiction of the United States.

DEFINITIONS

SEC. 5. (a) Whenever two or more persons shall knowingly in concert (a) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by violence against person or property, any power of correction or punishment over any person or persons in the custody of any governmental officer or employee or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, such persons shall constitute a lynch mob within the meaning of this Act. Any such action, or attempt at such action, by a lynch mob shall constitute lynching within the meaning of this Act.

(b) The term "governmental officer or employee," as used in this Act, shall mean any officer or employee of a State or any governmental subdivision thereof, or any officer or employee of the United States, the District of Columbia, or any Territory, possession or other area within the exclusive jurisdiction of the United States.

PUNISHMENT FOR LYNCHING

SEC. 6. Any person, whether or not a governmental officer or employee, (a) who is a member of a lynch mob or (b) who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than one year, or both: *Provided, however*, That where such lynching results in death or maiming or other serious physical or mental injury, or in damage to property, constituting a felony under applicable State, District of Columbia, Territorial, or similar law, any such person shall, upon conviction, be fined not more than $10,000, or imprisoned not more than twenty years, or both. A felony, for purposes of this section, shall be deemed an offense which, under applicable State, District of Columbia, Territorial, or similar law, is punishable by imprisonment for more than one year.

PUNISHMENT FOR KNOWING FAILURE TO PREVENT OR PUNISH LYNCHING

SEC. 7. Whenever a lynching shall occur, (a) any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or knowingly failed to make all diligent efforts to prevent the lynching, and (b) any governmental officer or employee who shall have had custody of a person or persons lynched and shall have neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, and (c) any governmental officer or employee who, in violation of his duty as such officer or employee, shall neglect, refuse, or knowingly fail to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets or commits a lynching by any means whatsoever, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both.

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC. 8. The Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this Act, whenever information on oath is submitted to him that a lynching has occurred, and (a) that any governmental officer or employee who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent such lynching, has neglected, refused, or knowingly failed to make all diligent efforts to prevent such lynching, or (b) that any governmental officer or employee who shall have had custody of a person or persons lynched and has neglected, refused, or knowingly failed to make all diligent efforts to protect such person or persons from lynching, or (c) that any governmental officer or employee, in violation of his duty as such officer or employee, has neglected, refused, or knowingly failed to make all diligent efforts to apprehend, keep in custody, or prosecute any person who is a member of the lynch mob or who knowingly instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever.

AMENDMENT TO ANTIKIDNAPING ACT

SEC. 9. The crime defined in and punishable under chapter 55 of title 18, United States Code, shall include knowingly transporting in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, national origin, ancestry, language, or religion, or for purposes of punishment, conviction, or intimidation.

CIVIL ACTIONS FOR DAMAGES

SEC. 10. (a) Any person, or in the event of his death the next of kin of any person, who as the result of a lynching suffers death, or physical or mental injury, or property damage shall be entitled to maintain a civil action for damages for such death, injury, or damage against—

(1) any person who violates section 6, 7, or 9 of this Act in connection with such lynching;

(2) (A) the United States, or the District of Columbia, or any Territory, possession, or other governmental subdivision of the United States to which

local police functions have been delegated and in which the lynching takes place, or

(B) the State or governmental subdivision thereof to which local police functions have been delegated and in which the lynching takes place.

In any action brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States, or against any State or governmental subdivision thereof, proof by a preponderance of evidence that any officers charged with preventing the lynching used all diligence and all powers vested in them for the protection of the property damaged, or of the person or persons killed or injured shall be an adequate affirmative defense. In any action brought pursuant to this section, the satisfaction of a judgment against any individual or governmental defendant shall bar further proceedings against any other individual or governmental defendant. Where recovery in any action brought pursuant to this section is based in whole or in part on death or on physical or mental injury, the judgment shall be not less than $2,000.

(b) Where any action under this section is brought against the United States, the District of Columbia, or any Territory or possession or other governmental subdivision of the United States the action shall be brought and prosecuted by the claimant or claimants and any judgment recovered shall include reasonable attorney's fees

(c) Any judge of the United States district court for the district in which any action under this section is instituted, or in which such action may have been transferred under the provisions of section 1404 of title 28 of the United States Code, may direct that such action be tried in any place in such district as he may designate.

(d) Any action brought pursuant to this section must be initiated within three years of the accrual of the cause of action.

SEVERABILITY CLAUSE

SEC. 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3387, 84th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241 (a) If two or more persons conspire to injure, oppress, threaten or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently

with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3421, 84th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3474, 84th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrong-

ful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3566, 84th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned

not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2 Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3 Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivation of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H R 3580, 84th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisened not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the Unied Staes as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 5349, 84th Cong., 1st sess.]

A BILL To amend and supplement existing civil-rights statutes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 241 of title 18, United States Code, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

Such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 2. Secion 242 of title 18, United States Code, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 3. (a) Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Rights, privileges, and immunities

"The rights, privileges, and immunities referred to in section 242 shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

(b) The analysis of chapter 13 of title 18, United States Code, immediately preceding section 241 of such code, is amended by inserting immediately after and below

"242. Deprivation of rights under color of law."

the following:

"242A. Rights, privileges, and immunities."

SEC. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 258, 84th Cong., 1st sess.]

A BILL To amend sections 241 and 242 of title 18, United States Code

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 241 of title 18 of the United States Code is amended to read as follows:

"If two or more persons conspire to injure, oppress, threaten, or intimidate any person in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or."

SEC. 2. Section 242 of such title is amended to read as follows:

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

[H. R. 3388, 84th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1955."

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 4. It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time

to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 104. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 3422, 84th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the Executive Branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1955."

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the Executive and Legislative Branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are adbridged or denied.

SEC. 3 There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 4 It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other develop-

ments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 104. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 3475, 84th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1955.

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the Presi-

dent, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 4. It shall be the duty and function of the Commission to gather timely and authoritative information concerning, economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress, legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 104. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 3568, 84th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1955."

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth,

productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commision shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quórum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 4. It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 104. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 3579, 84th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1955."

SEC. 2 The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the Executive and Legislative Branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC 4. It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress, legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC 5 (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 104. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 5351, 84th Cong., 1st sess.]

A BILL To establish a Commission on Civil Rights in the Executive Branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Civil Rights Act of 1955."

SEC. 2. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States call for more adequate protection of the civil rights of individuals; and that the Executive and Legislative Branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 3. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 4. It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

The Commission shall make an annual report to the President and to the Congress of its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 5. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance

of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as in its discretion it deems necessary and advisable.

SEC. 104. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

[H. R. 627, 84th Cong., 1st sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1955."

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SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution,

and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC. 101. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 102. It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights. The Commission shall make an annual report of the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 103. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize services of voluntary and uncompensated personnel and to pay any such personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

(c) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC. 111. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 112. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

PART 3—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 121. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the Joint Committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 122. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of approving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 123. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 124. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the Joint Committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words.

SEC. 125. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 126. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more that ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not mor than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC. 242. Whoever, under color of any law, statute, ordinance, regulation, or custom, wilfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 203. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"SEC. 242A. The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 204. Title 18, United States Code, section 1583, is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces any other person to go on board any vessel or other means of transportation or to any other place withiin or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both."

PART 2—PROJECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC. 211. Title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 212. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3.—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise partici-

pates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 3389, 84th Cong., 1st sess.]

A BILL To protect the civil rights of individuals by establishing a Commission on Civil Rights in the executive branch of the Government, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1955."

TITLE I—COMMISSION ON CIVIL RIGHTS

SEC. 101. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States, are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 102. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 103. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and

other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 104. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 105. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

TITLE II—CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

SEC. 201. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 202. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be

feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it dems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC. 305. Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory commitees and may consult with such representatives of State and local governments and private organzations as it deems advisable.

TITLE IV—CRIMINAL LAWS PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 401. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this secction shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The

term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of rights, privileges, and immunities

"The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LAWS PROTECTING RIGHT TO POLITICAL PARTICIPATION

SEC. 501. Title 18, United States Code, section 594, is amended to read as follows:

"§ 594. Intimidation of voters

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

SEC. 502. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people, conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning

of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 503. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section and of section 2004 of the Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 504. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE VI—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 601. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 602. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 603. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

TITLE VII—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 701. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and

shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceedings for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 702. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action of law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 3423, 84th Cong., 1st sess.]

A BILL To protect the civil rights of individuals by establishing a Commission on Civil Rights in the executive branch of the Government, a Civil Rights Division in the Department of justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1955."

TITLE I—COMMISSION ON CIVIL RIGHTS

SEC. 101. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 102. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 103. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and

other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 104. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 105. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

TITLE II—CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

SEC. 201. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 202. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (thereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be

feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC. 305. Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS PROTECTION CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 402. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of rights, privileges, and immunities

"The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LAWS PROTECTING RIGHT TO POLITICAL PARTICIPATION

SEC. 501. Title 18, United States Code, section 594, is amended to read as follows:

"§ 594. Intimidation of voters

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

SEC. 502. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 503. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section and of section 2004 of the Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 504. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE VI—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 601. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 602. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 603. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

TITLE VII—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 701. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law,

suit in equity, or other proper proceedings for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 702. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action of law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 3472, 84th Cong., 1st sess.]

A BILL To protect the civil rights of individuals by establishing a Commission on Civil Rights in the Executive branch of the Government, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes

Be it enacted by the Senate and House of Reprecentatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1955."

TITLE I—COMMISSION ON CIVIL RIGHTS

SEC. 101. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 102. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman.

The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Comission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 103. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and en-

forcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 104. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 105. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be require from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

TITLE II—CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

SEC. 201. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Divisions of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 202. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and miniority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC. 305. Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 401. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.),

and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section.

"§ 242A. Enumeration of rights, privileges, and immunities

"The right, privileges, and immunities, referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LAWS PROTECTING RIGHT TO POLITICAL PARTICIPATION

SEC. 501. Title 18, United States Code, section 594, is amended to read as follows:

"§ 594. Intimidation of voters

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

SEC. 502. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004 All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 503. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section and of section 2004 of the Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 504. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE VI—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 601. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 602. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 603. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

TITLE VII—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 701. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and offense, and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceedings for dam-

ages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S C 81 et seq), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 702. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action of law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U S. C. et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H R. 3562, 84th Cong., 1st sess.]

A BILL To protect the civil rights of individuals by establishing a Commission on Civil Rights in the executive branch of the Government, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1955".

TITLE I—COMMISSION ON CIVIL RIGHTS

SEC. 101. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are bing denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 102. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the member of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 103. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and en-

forcement program of the Federal Government with respect to civil rights; to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 104. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 105. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

TITLE II—CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

SEC. 201. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 202. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights, and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

S53. 305. Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC 401. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of rights, privileges, and immunities

"The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC. 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LAWS PROTECTING RIGHT TO POLITICAL PARTICIPATION

SEC. 501. Title 18, United States Code, section 594, is amended to read as follows:

"§ 594. Intimidation of voters

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

SEC. 502. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 503. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section and of section 2004 of the Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 504 If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE VI—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 601. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 602. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 603. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

TITLE VII—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 701. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conceyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceedings for damages or preventive or

declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 702. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on acount of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action of law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 3585, 84th Cong., 1st sess.]

A BILL To protect the civil rights of individuals by establishing a Commission on Civil Rights in the Executive branch of the Government, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1955."

TITLE I—COMMISSION ON CIVIL RIGHTS

SEC. 101. The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied.

SEC. 102. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made. Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC. 103. (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; to

appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Americans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 104. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 105. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

TITLE II—CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

SEC 201. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC 202 The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and

immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC. 305. Funds appropriated to the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 401. Title 18, United States Code, section 241, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 402. Title 18, United States Code, section 242, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 403. Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of rights, privileges, and immunities

"The rights, privileges, and immunities, referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

SEC 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LAWS PROTECTING RIGHT TO POLITICAL PARTICIPATION

SEC. 501. Title 18, United States Code, section 594, is amended to read as follows:

§ 594. Intimidation of voters

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

SEC. 502. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; and constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 503. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section and of section 2004 of the

Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 504. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE VI—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 601. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 602. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 603. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

TITLE VII—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 701. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceedings for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without

regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 702. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action of law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H R. 5348, 84th Cong , 1st sess]

A BILL To protect the civil rights of individuals by establishing a Commission on Civil Rights in the executive branch of the Government, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Human Rights Act of 1955."

TITLE I—COMMISSION ON CIVIL RIGHTS

SEC 101 The Congress finds that the freedoms guaranteed by the Constitution of the United States have contributed, in large measure, to the rapid growth, productivity, and ingenuity, which characterizes our Nation; that, despite the continuing progress of our Nation with respect to the protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened. The Congress recognizes that the national security and general welfare of the United States calls for more adequate protection of the civil rights of individuals; and that the executive and legislative branches of our Government must be accurately and continuously informed concerning the extent to which fundamental constitutional rights are abridged or denied

SEC 102. There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission") The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made Three members of the Commission shall constitute a quorum. Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10).

SEC 103 (a) It shall be the duty and function of the Commission to gather timely and authoritative information concerning economic, social, legal, and other developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights: to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights; to assist States, counties, municipalities, and private agencies in conducting studies to protect civil rights of all Ameri-

cans without regard to race, color, creed, or national origin; and to recommend to the Congress legislation necessary to safeguard and protect the civil rights of all Americans.

(b) The Commission shall make an annual report to the President and to the Congress, on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC. 104. (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

SEC. 105. (a) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under study or investigation. Any member of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States court of any Territory or possession, or the District of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

TITLE II—CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

SEC. 201. There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 202. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

TITLE III—JOINT COMMITTEE ON CIVIL RIGHTS

SEC. 301. There is established a Joint Committee on Civil Rights (hereinafter called the "joint committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 302. It shall be the function of the joint committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights:

and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 304. The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable. The provisions of section 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of funds available to it, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 40 cents per hundred words.

SEC. 305. Funds available for the joint committee shall be disbursed by the Secretary of the Senate on vouchers signed by the chairman and vice chairman.

SEC. 306. The joint committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE IV—CRIMINAL LAWS PROTECTING CONSTITUTIONAL RIGHTS, PRIVILEGES, AND IMMUNITIES

SEC. 401. Section 241 of title 18, United States Code, is amended to read as follows:

"§ 241. Conspiracy against rights of citizens

"(a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

"They shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

"Such person shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsection (a) or (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term 'district courts' includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States."

SEC. 402. Section 242 of title 18, United States Code, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC. 403. (a) Title 18, United States Code, is amended by adding after section 242 thereof the following new section:

"§ 242A. Enumeration of rights, privileges, and immunities

"The rights, privileges, and immunities referred to in section 242 shall be deemed to include, but shall not be limited to, the following:

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law.

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin.

"(6) The right to vote as protected by Federal law."

(b) The analysis of chapter 13 of title 18, United States Code, immediately preceding section 241 of such code, is amended by inserting immediately after and below—

"242. Deprivation of rights under color of law."

the following:

"242A. Enumeration of rights, privileges, and immunities."

SEC. 404. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LAWS PROTECTING RIGHT TO POLITICAL PARTICIPATION

SEC. 501. Section 594 of title 18, United States Code, is amended to read as follows:

"§ 594. Intimidation of voters

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

SEC. 502. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"SEC. 2004. All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory or by or under its authority, to the contrary notwithstanding. The right to qualify to

vote, and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of section 242 of title 18, United States Code, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 503. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code, shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section and of section 2004 of the Revised Statutes shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 504. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE VI—CRIMINAL LAWS RELATING TO CONVICT LABOR, PEONAGE, SLAVERY, AND INVOLUNTARY SERVITUDE

SEC. 601. Subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempt to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 602. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude—

"Shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 603. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

TITLE VII—PROHIBITION AGAINST DISCRIMINATION IN INTERSTATE TRANSPORTATION

SEC. 701. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in sich denial or attempt, shall be guilty of a misdemeanor and

shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 702. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action of law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. S. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

[H. R. 3390, 84th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district

court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3419, 84th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct, or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declatory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3476, 84th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Mem-

ber of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised States (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herin, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held in valid, the validity of the remainder of the Act, and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3569, 84th Cong., 1st sess.]

A BILL To protect the rights to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC 3 In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief The districts courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC 4 If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby

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[H R. 3582, 84th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, section 594, is amended to read as follows:

"SEC 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC 3. In addition to the criminal penalties provided, any person or persons violating the provisions of the first section of this Act shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of this Act shall also be enforceable by the Attorney General in suits in the disttrict courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 5343, 84th Cong., 1st sess.]

A BILL To protect the right to political participation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 594 of title 18, United States Code, is amended to read as follows:

"§ 594. Intimidation of voters

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

SEC. 2. Section 2004 of the Revised Statutes (42 U. S. C. 1971) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in or by any State, Territory, district, county, city, parish, township, school district, municipality, or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of section 242 of title 18, United States Code, section 1979 of the Revised Statutes (42 U. S. C. 1983), and other applicable provisions of law."

SEC. 3. In addition to the criminal penalties provided, any person or persons violating the provisions of section 594 of title 18, United States Code (as amended by the first section of this Act) shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of such section 594, and of section 2004 of the Revised Statutes (as amended by section 2 of this Act), shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 3391, 84th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the

training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 3478, 84th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 3571, 84th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 3583, 84th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 3418, 84th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 102. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 5350, 84th Cong., 1st sess.]

A BILL To reorganize the Department of Justice for the protection of civil rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

SEC. 2. The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law. Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

[H. R. 628, 84th Cong., 1st sess.]

A BILL To amend sections 1581, 1583, and 1584 of title 18, United States Code, so as to prohibit attempts to commit the offenses therein proscribed

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended to read as follows:

"Whoever kidnaps, arrests, or carries away any other person, or attempts to kidnap, arrest, or carry away any other person, with the intent that such other person be sold into, held in, or returned to condition of slavery or involuntary servitude; or

"Whoever entices, persuades, induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or to any other place with the intent that he may be made or held as a slave, or sent out of the country to be so made or held—

"Shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit

any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 3394, 84th Cong., 1st sess.]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 3420, 84th Cong., 1st sess.]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 3481, 84th Cong., 1st sess.]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 3567, 84th Cong., 1st sess.]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended or read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servtude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly or willfully holds to involuntary servitude, or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 3581, 84th Cong., 1st sess.]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or return any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of

peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 2. Section 1583 of such title is amended to read as follows:

"SEC. 1583. Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servtiude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 3. Section 1584 of such title is amended to read as follows:

"Whoever knowingly or willfully holds to involuntary servtiude, or sells into any condition of involuntary servtiude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H R. 5344, 84th Cong., 1st sess.]

A BILL To strengthen the laws relating to convict labor, peonage, slavery, and involuntary servitude

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1581 of title 18, United States Code, is amended to read as follows:

"(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, or attempts to hold, return, or arrest any person with such intent, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

SEC. 2. Section 1583 of such title is amended to read as follows:

"§ 1583. Enticement into slavery

"Whoever holds or kidnaps or carries away any other person, or attempts to hold, kidnap, or carry away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave; or

"Whoever entices, persuades, or induces, or attempts to entice, persuade, or induce, any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he be made a slave or held in involuntary servitude—

"Shall be fined not more than $5,000 or imprisoned not more than five years, or both"

SEC. 3. Section 1584 of such title is amended to read as follows:

"§ 1584. Sale into involuntary servitude

"Whoever knowingly and willfully holds to involuntary servitude, or sells into any condition of involontary servitude, any other person for any term, or brings within the United States any person so held, or attempts to commit any of the foregoing acts, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

[H. R. 5503, 84th Cong., 1st sess.]

A BILL To promote further respect for and observance of civil rights within the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles according to the following table of contents, may be cited as the "Civil Rights Act of 1955".

TABLE OF CONTENTS

TITLE I—CIVIL RIGHTS COMMISSION

SEC. 101. (a) There is hereby established a Civil Rights Commission (referred to in this title as the "Commission"), which shall be composed of three members appointed by the President, by and with the advice and consent of the Senate.

(b) The term of office of each member of the Commission shall be three years, except that the terms of the members first taking office shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, and one at the end of three years after the date of enactment of this Act, and any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(c) The commission shall elect a Chairman from among its members.

(d) Each member of the Commission shall be compensated at the rate of $50 for each day he is engaged in the business of the Commission, and shall be allowed travel expenses as authorized by the Travel Expense Act of 1949.

SEC. 102. The Commission shall conduct a continuing study and investigation of the policies, practices, and enforcement program of the Federal Government with respect to civil rights, and of the progress made throughout the Nation in promoting respect for and observance of civil rights. Each year the Commission shall report its findings and recommendations to the Congress.

TITLE II—PROHIBITION AGAINST POLL TAX

SEC. 201. The requirement that a poll tax be paid as a prerequisite to voting or registering to vote, in any primary or other election, for the selection of a President, a Vice President, electors for President and Vice President, or of a United States Senator or a Representative in the Congress of the United States, is not and shall not be deemed a qualification of voters or electors to vote or to register to vote at primaries or other elections for any of such officers.

SEC. 202. It shall be unlawful for any State, municipality, or other government or governmental subdivision to levy a poll tax or any other tax on the right or privilege of voting, in any primary or other election, for the selection of any of the officers referred to in section 201; or to deny any person the right or privilege of voting or registering to vote in any such primary or other election on the ground that such person has not paid a poll tax.

SEC. 203. It shall be unlawful for any State, municipality, or other government or governmental subdivision, or for any person, whether or not acting under cover of the law of any State or subdivision thereof, to impose upon any person a requirement that a poll tax be paid as a prerequisite to the right or privilege of voting or registering to vote, in any primary or other election, for the selection of persons for national office.

TITLE III—PROTECTION FROM MOB VIOLENCE AND LYNCHING

DEFINITIONS

SEC. 301. Any assemblage of two or more persons which shall, without authority of law, (a) commit or attempt to commit violence upon the person of any citizen or citizens of the United States because of his or their race, creed, color, national origin, ancestry, language, or religion, or (b) exercise or attempt to exercise, by physical violence against the person, any power or correction or punishment over any citizen or citizens of the United States or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this title. Any such violence by a lynch mob shall constitute lynching within the meaning of this title.

PUNISHMENT FOR LYNCHING

SEC. 302 Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding twenty years, or by both such fine and imprisonment.

PUNISHMENT FOR FAILURE TO PREVENT LYNCHING

SEC 303 Whenever a lynching shall occur, any officer or employee of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer or employee to prevent the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, in violation of his duty as such officer or employee, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment

DUTY OF ATTORNEY GENERAL OF THE UNITED STATES

SEC 304. Whenever a lynching of any person or persons shall occur, and information on oath is submitted to the Attorney General of the United States that any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching, or who shall have had custody of the person or persons lynched, has neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching or that any officer or employee of a State or governmental subdivision thereof, in violation of his duty as such officer or employee, has neglected, refused, or willfully failed to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, the Attorney General of the United States shall cause an investigation to be made to determine whether there has been any violation of this title

KIDNAPING PENALTIES MADE APPLICABLE

SEC 305 The crime defined in and punishable under section 1201 of title 18 of the United States Code shall include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation

TITLE IV—EQUALITY OF OPPORTUNITY IN EMPLOYMENT

FINDINGS AND DECLARATION OF POLICY

SEC. 401 (a) The Congress hereby finds that, despite the continuing progress of our Nation, the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:

(1) To remove obstructions to the free flow of commerce among the States and with foreign nations

(2) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

(3) To advance toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

DEFINITIONS

SEC. 402. As used in this title—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, if no part of the net earnings inures to the benefit of any private shareholder or individual, other than a labor organization.

(c) The term "employment agency" means any person undertaking with or without compensation to procure employees or opportunities to work for an employer; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, if no part of the net earnings inures to the benefit of any private shareholder or individual.

(d) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(e) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any States, Territory, possession, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory or possession; or between points in the same State, the District of Columbia or any Territory or possession but through any point outside thereof.

(f) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(g) The term "Commission" means the Equality of Opportunity in Employment Commission, created by section 405.

EXEMPTION

SEC. 403. This title shall not apply to any employer with respect to the employment of aliens outside the continental United States, its Territories and possessions.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 404. (a) It shall be an unlawful employment practice for an employer—

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

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to properly classify or refer for employment, or otherwise to dis-

criminate against any individual because of his race, color, religion, national origin or ancestry.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual or any employer because of the race, color, religion, national origin or ancestry of any individual;

(2) to cause or attempt to force an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, employment agency or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this title.

THE EQUALITY OF OPPORTUNITY IN EMPLOYMENT COMMISSION

SEC 405. (a) There is hereby created a Commission to be known as the Equality of Opportunity in Employment Commission, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noted.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $15,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercice any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent, other than a member of the Commission, designated to conduct a proceeding or a hearing shall be a resident of the judicial circuit, as defined in title 28, United States Code, chapter 3, section 41, within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint, in accordance with the Civil Service Act, rules, and regulations, such officers, agents, and employees, as it deems necessary to assist it in the performance of its functions, and to fix their compensation in accordance with the Classification Act of 1949, as amended; attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court;

(2) to cooperate with and utilize regional, State, local, and other agencies;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or any order issued thereunder;

(4) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(6) to create such local, State, or regional advisory and conciliation

councils as in its judgment will aid in effectuating the purpose of this title, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizens resident of the area for which they are appointed, who shall serve without compensation, but shall receive transportation and per diem in lieu of subsistence as authorized by section 5 of the Act of August 2, 1946 (5 U. S. C. 73b–2), for persons serving without compensation; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance; the Commission may, to the extent it deems it necessary, provide by regulation for exemption of such persons from the operation of title 18, United States Code, sections 281, 283, 284, 434, and 1914, and section 190 of the Revised Statutes (5 U. S. C. 99); such regulation may be issued without prior notice and hearing.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 406. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 404. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise: *Provided*, That an agreement between or among an employer or employers and a labor organization or labor organizations pertaining to discrimination in employment shall be enforceable in accordance with applicable law, but nothing contained therein shall be construed or permitted to foreclose the jurisdiction over any practice or occurrence granted the Commission by this title: *Provided further*, That the Commission is empowered by agreement with any agency of any State, Territory, possession, or local government, to cede, upon such terms and conditions as may be agreed, to such agency jurisdiction over any cases or class of cases, if such agency, in the judgment of the Commission, has effective power to eliminate and prohibit discrimination in employment in such cases.

(b) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to this title has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion.

(c) If the Commission fails to effect the elimination of such unlawful practice and to obtain voluntary compliance with this title or in advance thereof if circumstances warrant, the Commission shall have power to issue and cause to be served upon any person charged with the commission of an unlawful employment practice (hereinafter called the "respondent") a complaint stating the charges in that respect, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such complaint. No complaint shall issue based upon any unlawful employment practice occurring more than one year prior to the filing of the charge with the Commission and the service of a copy thereof upon the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the period of military service shall not be included in computing the one-year period.

(d) The respondent shall have the right to file a verified answer to such complaint and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(e) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend its answer.

(f) All testimony shall be taken under oath.

(g) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(h) At the conclusion of a hearing before a member or designated agent of the Commission, such member or agent shall transfer the entire record thereof to the Commission, together with his recommended decision and copies thereof shall be served upon the parties The Commission, or a panel of three qualified members designated by it to sit and act as the Commission in such case, shall afford the parties an opportunity to be heard on such record at a time and place to be specified upon reasonable notice In its discretion, the Commission upon notice may take further testimony.

(i) With the approval of the member or designated agent conducting the hearing, a case may be ended at any time prior to the transfer of the record thereof to the Commission by agreement between the parties for the elimination of the alleged unlawful employment practice on mutually satisfactory terms.

(j) If, upon the preponderance of the evidence, including all the testimony taken, the Commission shall find that the respondent engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person and other parties an order requiring such person to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the discrimination), as will effectuate the policies of this title: *Provided*, That interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable Such order may further require such respondent to make reports from time to time showing the extent to which it has complied with the order If the Commission shall find that the respondent has not engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person and other parties an order dismissing the complaint

(k) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the case may at any time be ended by agreement between the parties, approved by the Commission, for the elimination of the alleged unlawful employment practice on mutually satisfactory terms, and the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it

(l) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7 S, and 11 of the Administrative Procedure Act.

JUDICIAL REVIEW

SEC. 407 (a) The Commission shall have power to petition any United States court of appeals or, if the court of appeals to which application might be made is in vacation, any district court within any circuit or district, respectively, wherein the unlawful employment practice in question occurred, or wherein the respondent resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(b) Upon such filing the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) The findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(e) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent and to be made a part of the transcript.

(f) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order.

(g) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(h) Any person aggrieved by a final order of the Commission may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person resides or transacts business or the Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsections (a), (b), (c), (d), (e), and (f), and shall have the same exclusive jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(i) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(j) The commencement of proceedings under this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(k) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order of the Commission, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (U. S. C., title 29, secs. 101–115).

(l) Petitions filed under this title shall be heard expeditiously.

INVESTIGATORY POWERS

SEC. 408. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this title, the Commission, or any member thereof, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(c) In case of contumacy or refusal to obey a subpena issued to any person under this title, any district court within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to

issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(d) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(e) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(f) Complaints, orders, and other process and papers of the Commission, its member, agent, or agency, may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post-office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Commission, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(g) All process of any court to which application may be made under this title may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

(h) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any matter before the Commission.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES AND CONTRACTORS

SEC. 409. (a) The President is authorized to take such action as may be necessary (1) to conform fair employment practices within the Federal establishment with the policies of this title, and (2) to provide that any Federal employee aggrieved by any employment practice of his employer must exhaust the administrative remedies prescribed by Executive order or regulations governing fair employment practices within the Federal establishment prior to seeking relief under the provisions of this title. The provision of section 407 shall not apply with respect to an order of the Commission under section 406 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or of the District of Columbia, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders.

(b) The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 410. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted, a notice to be prepared or approved by the Commission setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

VETERANS' PREFERENCE

SEC. 411. Nothing contained in this title shall be construed to repeal or modify any Federal, State, Territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

SEC. 412. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 413. The provisions of section 11, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

EFFECTIVE DATE

SEC. 414. This title shall become effective sixty days after enactment, except that subsections 406 (c) to (1), inclusive, and section 407 shall become effective six months after enactment.

STATEMENT OF HON. EMANUEL CELLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK, CHAIRMAN, JUDICIARY COMMITTEE

Mr. CELLER. Mr. Chairman, of course, those commendations are music to my ears, but ofttimes we relish the praise that we do not deserve. But I will say to the chairman that while I do not deserve all these praises, being a good businessman, I will settle for half.

I appreciate very much the opportunity to appear before you today to testify in behalf of H. R. 258, H. R. 259, H. R. 627, and H. R. 628, bills which I offered. I hasten to assure you that I do not intend to belabor you with proof of obvious facts.

Let me state three propositions which establish the necessity of civil-rights legislation. First, today, there is widespread violation of the civil rights—the human rights—of fellow American citizens. Second, it is clear to me as it was to President Truman's Committee on Civil Rights that "the National Government of the United States must take the lead in safeguarding the civil rights of all Americans." Third, it is clear to me that Congress has been somewhat derelict in its duty to provide wise legislation to safeguard the civil rights of our citizens. I recognize that some will disagree with one or more of these basic propositions. But, as I said, I have no intention of reviewing the overwhelming, and to me conclusive, evidence in support of these propositions which has been presented to the Judiciary Committee on many previous occasions. I can only respectfully disagree with any who as yet remain unconvinced of the soundness of these basic propositions.

As a member of the legislative branch of the Government, I believe that we have abdicated our responsibility completely. Furthermore,

under the present administration, the executive branch has shown no great zeal in this area. It has remained to the judiciary to carry the heavy load of this great national responsibility with any degree of honor. I am happy to applaud the courage and wisdom of our judges.

Yes; we have had many pontificial declarations from on high but unfortunately there has been no active or vigorous followup of those pontifical declarations and we have had no action and that, in part, I think, is due to the failure of leadership. I am not going to stand idly by and just accept lip service in that regard. It is most inappropriate that the judiciary should be forced to carry this burden alone. It is very difficult for the courts to fashion a well-coordinated, overall policy for the effective protection of constitutionally guaranteed civil rights. The courts can only proceed by a piecemeal, case-by-case approach. It is regrettable that the courts are forced to this difficult position by the failure of Congress to provide a coordinated legislative policy.

It is my belief that the bills which I have introduced would provide a more coordinated legislative civil-rights policy and provide more effective protection of recognized civil rights. At the same time, analysis of these bills will disclose that they make no revolutionary innovations in the law. H. R. 627, identified as the "Civil Rights Act of 1955," calls for (1) the creation of a Joint Congressional Committee on Civil Rights, and (2) for a Federal Commission on Civil Rights in the executive branch of the Government to investigate and report annually on the status of civil rights protection in the United States. Sections 111 and 112, pages 7 and 8, of this bill provide for reorganization of the Department of Justice to make enforcement of civil-rights legislation more effective. I consider this one of the most pressing current needs; that is, the effective enforcement of recognized civil rights.

H. R. 627 would provide an additional Assistant Attorney General to head a more potent Civil Rights Division in the Department of Justice and authorize additional FBI personnel to effectively investigate alleged violations of civil rights.

Title II of this bill, starting on page 10, would close some loopholes in existing civil-rights statutes. At present, title 18, United States Code, section 241, punishes conspiracies to encroach on federally secured rights of citizens. But it does not punish such encroachment when done by individuals. On page 11, subsection (b) is added by my bill to punish such individual encroachment. Also, this statute at present does not protect the rights of aliens. My bill, on page 10, amends present law to include all inhabitants of the United States, thus including aliens in its protection. This amendment would make section 241 consistent with section 242 on this score. At present, section 242 of title 18, United States Code, punishes officials who, under color of law, deprive persons of rights, privileges, and immunities secured by Federal law. The only proposed change in this section is to provide a more severe penalty when its violation results in killing or maiming of the victim. This increased penalty provision is also proposed for section 241. In general, the present law provides a penalty consistent with a misdemeanor. My bill would make the violation a felony when there is maiming or a killing.

On page 13 of H. R. 627, a new section is added to these civil-rights statutes. The purpose of this new section is to clarify rather than

make any great change in existing law. But this clarification would make effective enforcement much easier. I am sure you gentlemen are aware of the case of *Screws* v. *United States*, reported in 325 U. S. 91 (1945) in which a county sheriff, a policeman, and a special deputy beat to death a Negro youth. A jury found the officers guilty of violating present section 242. The Supreme Court reversed the conviction on the grounds, among others, that the instructions to the jury did not correctly state the requirements of willful encroachment on a federally secured right. In addition, the Court indicated that section 242 raised serious problems of vagueness and indefiniteness. The Court said it is not always clear what rights, privileges, and immunities are federally secured. The new section in my bill, added on page 13 of H. R. 627, gives legislative specification of some rights which have already been judicially determined to be federally secured. This remedies, in part, the problem of vagueness and indefiniteness attending prosecution under sections 241 and 242.

And I suggest, Mr. Chairman, that there might be included in these hearings a report prepared and submitted by former Attorney General Clark, entitled "Statement and Analysis by the Attorney General Concerning the Proposed Civil Rights Act of 1949." That report appears on page 80 and the following pages of the hearings before Subcommittee No. 3 of the Committee on the Judiciary of the House of Representatives, 81st Congress, during its 1st and 2d sessions.

Mr. LANE. What pages, again?

Mr. CELLER. On pages 80 and following.

Mr. LANE. You would like to make that a part of the record?

Mr. CELLER. I should like to make that a part of the record. It appears at pages 80 through 102, and is a very comprehensive report, and was submitted by former Attorney General Clark to a subcommittee of our Judiciary Committee and that subcommittee was presided over by the late lamented William Byrne of New York.

Mr. LANE. Without objection, it will be made a part of the record.

(The report referred to follows:)

STATEMENT AND ANALYSIS BY THE ATTORNEY GENERAL CONCERNING THE PROPOSED CIVIL RIGHTS ACT OF 1949 IN HEARINGS BEFORE COMMITTEE ON JUDICIARY ON ANTILYNCHING AND PROTECTION OF CIVIL RIGHTS BILLS, 81ST CONGRESS, 1ST AND 2D SESSIONS (1949–1950)

GENERAL BACKGROUND

The fourteenth amendment to the Constitution, adopted in 1868, prohibits the States from making or enforcing laws "which shall abridge the privileges or immunities of citizens of the United States," from depriving "any person of life, liberty, or property, without due process of law," and from denying to any person "the equal protection of the laws."

The fifteenth amendment, which was added to the Constitution in 1870, provides that,

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

To avoid any doubts on the score, the amendments specifically authorize the Congress to provide for their enforcement "by appropriate legislation." But it is not questioned that the amendments are self-executing in that they render void and ineffectual any State action in conflict with them (*Cantwell* v. *Connecticut*, 310 U. S. 296 (1940); *ex parte Yarbrough*, 110 U. S. 651 (1884)).

The thirteenth amendment, adopted in 1865, by its terms abolished slavery and involuntary servitude. But Congress was, as in the later amendments, em-

powered to provide for enforcement by appropriate legislation. It was never doubted that slavery was thereby destroyed, yet the Congress was expressly given power to implement the amendment (*Clyatt* v. *United States*, 197 U. S. 207 (1905)).

The framers of these amendments, in their wisdom, sought to have enacted not unyielding ordinances limited in their terms to specific situations and cases, but an additional part of a plan of government, declaring fundamental principles as in the case of the original charter. The Constitution "by apt words of designation or general description, marks the outlines of the powers granted to the National Legislature; but it does not undertake, with the precision of detail of a code of laws, to enumerate the subdivisions of those powers, or to specify all the means by which they may be carried into execution" (Legal Tender Cases, 110 U. S. 439 (1884)). Thus the amendments declare the fundamental principles, which are effective and self-executing insofar as they may apply to a particular matter, but the Congress is empowered to extend their principles to meet the many situations and different circumstances which arise with the growth and advancement of our complex civilization. In the words of Mr. Justice Bradley, from the opinion in the Civil Rights Cases (109 U. S. 3, 20 (1883)):

"This amendment (the thirteenth), as well as the fourteenth, is undoubtedly self-executing without any ancillary legislation, so far as its terms are applicable to any existing state of circumstances. By its own unaided force and effect it abolished slavery, and established universal freedom. Still, legislation may be necessary and proper to meet all the various cases and circumstances to be affected by it, and to prescribe proper modes of redress for its violation in letter or spirit."

Following the Civil War a number of civil-rights statutes were enacted, but over the years, through decisions of the Supreme Court and Congressional action in 1894 and 1909, the laws implementing the three amendments were reduced in number and scope to the following:

Section 241, title 18, United States Code, conspiracy against rights of citizens, making a conspiracy to injure a citizen in the exercise of his Federal rights a felony;

Section 242, title 18, deprivation of rights under color of law, making willful action, under color of law, to deprive an inhabitant of his Federal rights a misdemeanor;

Section 243, title 18, exclusion of jurors on account of race or color, forbidding disqualification for jury service on account of race or color, and making such action by officers charged with selecting jurors a crime punishable by fine:

Section 594, title 18, intimidation of voters, enacted as part of the Hatch Act, making it a misdemeanor to intimidate any voter at a Federal election (but without clear reference to primary elections, as is discussed later).

Section 43, title 8, civil action for deprivation of rights, and section 47, title 8, conspiracy to interfere with civil rights, provide civil causes of actions for persons injured by deprivations and interferences generally similar to the wrongs punishable under the criminal provisions of title 18, sections 241 and 242. Sections 31, 41, and 42, title 8, declare the existence of equality without distinction as to race or color, in matters of voting, owning property, ability to contract, sue, give evidence, and the like; and section 56 of the same title abolishes peonage.

Section 1581, title 18, peonage; obstructing enforcement, makes the holding or returning of a person to a condition of peonage a crime; and section 1583, enticement into slavery, and section 1584, sale into involuntary servitude, make criminal the kidnaping, carrying away, or holding of a person to a condition of slavery or involuntary servitude.

(The texts of the foregoing statutes are set forth in appendix A.)

The existing civil-rights statutes fall far short of providing adequate implementation of the amendments protecting life, liberty, and property.

America has a great heritage of freedom, and few nations have come closer to achieving true liberty and democracy for its people. But the goal has not been reached. Much remains to be done, which can be done. It is clear that the present civil-rights statutes do not represent the full extent of the congressional power. It is equally clear that there is a real need for a broadening of the statutes, not necessarily to the fullest extent legally possible, but at least to overcome the shortcomings of the existing laws.

By way of example, the courts have had difficulties in dealing, among others, with two of the important statutes, sections 241 and 242, title 18, U. S. Code, and have on occasion practically invited congressional clarification. In *Screws* v.

United States (325 U. S. 91 (1945)), where four separate opinions were written by the Justices of the Supreme Court in construing 18 U. S. C. 242, Mr. Justice Douglas in the prevailing opinion indicated that the limitations imposed on the use of section 242 were inherent in the statute, and "If Congress desires to give the act wider scope, it may find ways of doing so." Further, if the meaning given to the statute by the Court "states a rule undesirable in the consequences, Congress can change it", 325 U. S. 91, 105, 112–113. Similarly, in *Baldwin* v. *Franks*, 120 U. S. 678 (1887), the Court, in dealing with 18 U. S. 241, suggested that Congress might cure by appropriate amendment what the Court found to be the limited application of the statute to citizens only, rather than to all inhabitants (120 U. S. 678, 692).

In his message on the State of the Union in 1946, President Truman said:

"While the Constitution withholds from the Federal Government the major task of preserving the peace in the several States, I am not convinced that present legislation reaches the limit of Federal power to protect the civil rights of its citizens."

The President then informed the Congress of the creation of a special committee on civil rights to frame recommendations for additional legislation.

This committee, known as the President's Committee on Civil Rights, consisted of 15 distinguished Americans from all ranks of life. It was directed by the President to "determine whether and in what respect current law-enforcement measures and the authority and means possessed by Federal, State, and local governments may be strengthened and improved to safeguard the civil rights of the people." (Executive Order No. 9808, December 5, 1946.)

Over a year later, after extensive work and research, the committee rendered its report to the President, entitled "To Secure These Rights" (hereinafter referred to as Report). At the outset it was noted that it will not be denied that the United States possesses "a position of leadership in enlarging the range of human liberties and rights, in recognizing and stating the ideals of freedom and equality, and in steadily and loyally working to make those ideals a reality." Great and permanent progress was observed. Serious shortcomings were found and described. Constructive remedies were proposed.

The President, supported by the Department of Justice, which is continually engaged in the enforcement of the civil rights statutes, after careful study, concluded that the report of the President's committee was essentially sound and that its principal recommendations should be carried out.

In his message on civil rights, delivered to the Congress on February 2, 1948 (H. Doc. 516, 94 Congressional Record, February 2, 1948, at pp. 960–962), the President stated:

"One year ago I appointed a committee of 15 distinguished Americans, and asked them to appraise the condition of our civil rights and to recommend appropriate action by Federal, State, and local governments.

"The committee's appraisal has resulted in a frank and revealing report. This report emphasizes that our basic human freedoms are better cared for and more vigilantly defended than ever before, but it also makes clear that there is a serious gap between our ideals and some of our practices. This gap must be closed.

* * * * * * *

"The Federal Government has a clear duty to see that constitutional guaranties of individual liberties and of equal protection under the laws are not denied or abridged anywhere in our Union. That duty is shared by all three branches of the Government, but it can be fulfilled only if the Congress enacts modern, comprehensive civil-rights laws, adequate to the needs of the day, and demonstrating our continuing faith in the free way of life."

The President then recommended that the Congress enact legislation directed toward specific objects, including:

Establishing a permanent commission on civil rights, a joint congressional committee on civil rights, and a civil-rights division in the Department of Justice.

Strengthening existing civil-rights statutes.

Protecting more adequately the right to vote.

Prohibiting discrimination in interstate transportation facilities.

These points are met in H. R. 4682. I strongly urge the enactment of the bill, and I join with the President's Committee in its view that "national leadership in this field is entirely consistent with our American constitutional traditions" (report, p. 104).

ANALYSIS OF PROPOSED CIVIL RIGHTS ACT OF 1949

Section 1 provides for the dividing of the act into titles and parts according to a table of contents, and for a short title, "Civil Rights Act of 1949."

Section 2 contains legislative findings and declarations.

Section 3 is a provision for separability.

Section 4 authorizes appropriations.

In my view the findings are the summation of years of experience, and reflect hard, physical facts which the President's Committee on Civil Rights, among others, has reported on, and which we at the Department of Justice meet daily. The purposes to be accomplished by the bill are purposes which this Nation has sought to achieve since its founding. We have always had the ideal and so long as we seek to realize it we are a healthy, vigorous Nation. Great gains have been made but greater gains will be made if this bill is enacted The bill does not purport to solve every problem and cure every evil; it does, however, represent a great forward step toward the goal of full civil liberties for all.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

Part 1—A Civil Rights Commission

Section 101 creates a five-member commission on civil rights in the executive branch of the Government, and makes the necessary provision for the appointment of the members, the officers, vacancies, quorum, and compensation

Section 102 provides for the duties and functions of the commission, including the making of an annual report to the President. (No hearing or subpena powers are conferred) To state it simply, the job of the commission would be to gather information, appraise policies and activities, and make recommendations.

Section 103 provides for the use of advisory committees, consultation with public and private agencies, and Federal agency cooperation. A paid staff is authorized, as well as the use of voluntary services.

At the present time the only unit in the executive branch of the Government which is specifically dedicated to work pertaining to civil rights of the people generally is the Civil Rights Section of the Department of Justice. (The work of the section is more fully discussed below, in connection with the proposed Civil Rights Division.) This section is a unit of the Criminal Division. Neither the section nor the Department has adequate facilities for studies or coordinating activities in civil rights matters. There is no agency which follows developments in the Federal or State spheres in civil rights, which can report authoritatively to the President or the Congress, or to the people, on the state of the constitutional liberties and safeguards, which can undertake research or survey projects for legislative purposes. In the fields of securities, trade and commerce, interstate carriers, labor, foreign affairs, defense, finance, and practically every other important phase of modern human endeavor, the Federal Government possesses highly qualified, specialized administrative and research agencies responsible for keeping the Government and the Nation abreast of all movements, trends, and developments. At any time that a new situation arises which calls for action, an expert opinion and thorough appraisal is available. But in the supremely important field of constitutional rights, the Government has no expert body or specialized agency for guidance and leadership.

It is not enough to protect rights now fully recognized and freely enjoyed if we are to progress toward enlarging the range of our liberties and privileges. We must be continually vigilant, prepared for every new form of attack upon the ideals and practices of our free society We must be in a position to recognize the existence of the disease when it strikes, to diagnose it, to prepare a remedy and to apply such remedy—without giving it time and opportunity to spread and weaken our national fiber

The White House and the Department of Justice receive a volume of mail from private citizens, including students, teachers, and universities, and, in some instances, from State officials, requesting information and guidance in constitutional problems—frequently in connection with civil liberties Such mail is usually of necessity channeled to the Civil Rights Section, but it is far too overburdened to cope with the requests. Because of limited personnel and facilities, it must restrict its activities to the enforcement of the criminal civil-rights statutes. It can only use expedients such as referring communicants to privately written and published books (which the Department does not and cannot officially approve), and to private organizations and universities which study and report

on the problems. (The NAACP, American Civil Liberties Union, Fisk University, and others have done notable work in the field. Much of the general information which the Department presently possesses has been furnished by such organization.)

As stated by the President's committee:

"In a democratic society, the systematic, critical review of social needs and public policy is a fundamental necessity. This is especially true of a field like civil rights, where the problems are enduring, and range widely. From our own effort, we have learned that a temporary, sporadic approach can never finally solve these problems.

"Nowhere in the Federal Government is there an agency charged with the continuous appraisal of the status of civil rights, and the efficiency of the machinery with which we hope to improve that status. There are huge gaps in the available information about the field. A permanent commission could perform an invaluable function by collecting data. It could also carry on technical research to improve the fact-gathering methods now in use. Ultimately, this would make possible a periodic audit of the extent to which our civil rights are secure. If it did this and served as a clearinghouse and focus of coordination for the many private, State, and local agencies working in the civil-rights field, it would be invaluable to them and to the Federal Government." (Report, p. 154)

The President, in his civil-rights message of February 2, 1948, made the following specific proposal to meet the need:

"As the first step, we must strengthen the organization of the Federal Government in order to enforce civil-rights legislation more adequately and to watch over the state of our traditional liberties.

"I recommend that the Congress establish a permanent Commission on Civil Rights reporting to the President. The Commission should continuously review our civil-rights policies and practices, study specific problems, and make recommendations to the President at frequent intervals. It should work with other agencies of the Federal Government, with State and local governments, and with private organizations."

The commission on civil rights proposed by this bill would have, in substance, the following functions and duties: It would act as a fact-finding agency concerned with the state of our civil rights, the practices of governments and organizations affecting civil rights, and with specific cases and situations involving deprivations of the rights of any person, group of persons, or section of the population. It would act as a research agency investigating general civil-rights problems to determine their causes and to recommend cures, either by legislation or by other means under existing laws. It would act as an educating and informational agency to keep before the people and their governments the importance of preserving and extending civil rights, not only for the concrete gains such actions would result in, but to bring about a greater awareness of the obligations of this Nation as a member of the United Nations. It would act for the Federal Government in working for and cooperating with the States and local governments in the solution of civil-rights problems, offering advice and assistance where desired or needed. In brief, the commission would represent the Government and the people, as well as provide leadership, in a continuing, vital phase of American life and society.

The establishment of an advisory commission or board to advise and assist the President is, of course, not an unusual action. With the growth of the Nation and the increase in the complexities of life and civilization, it has become increasingly necessary to make available expert agencies to handle the highly technical and involved problems naturally resulting. In the nineteenth century the process of building administrative machinery to meet the demands of an emerging industrial society began; the process was rapidly accelerated in the present century with the development of new avenues of enterprise in communication, commerce, finance, and general welfare. The administrative agencies, in order to carry out and enforce the Congressional policies, early found it necessary to develop their facilities for research and fact finding. These were used not only in the application of the specific laws within their jurisdiction, but in planning new programs to meet new problems as they arose. The stories of radio, television, air travel, securities and stock exchanges, and others, are too well known to need repeating here.

Advisory commissions and boards not charged with the administration of a regulatory statute have also been created, serving the President, the Congress, and the Nation in the formulation of policies and programs to be proposed to the Congress. Thus, the National Security Resources Board (61 Stat. 499;

50 U. S. C. 404 (1947 Supp.)) was created in 1947 "to advise the President concerning the coordination of military, industrial, and civilian mobilization * * *." Also in 1947 the Commission on Organization of the Executive Branch was created (61 Stat. 246; 5 U. S. C. 138 (a) et seq. (1947 Supp.)) to study and report on the operations and organizations of the several agencies, departments, and bureaus of the executive branch.

By the Employment Act of 1946 (60 Stat. 23; 15 U. S. C. 1021 et seq.), the Congress established a Council of Economic Advisers in the Executive Office of the President charged with duties and functions to gather information concerning economic developments and trends, to appraise relevant programs and activities of the Government, "to develop and recommend * * * national economic policies to foster and promote free competitive enterprise * * *," and to make and furnish studies, reports, and recommendations (15 U. S. C. 1023).

The powers given to the council are in many respects similar to those which would be given to the Civil Rights Commission by this bill, and the purposes and methods of the two groups for the attainment of their respective objectives would also be quite similar. Congress in the field of employment and economic stability of the Nation recognized the need for a continuing executive agency to supervise and study developments, and the need in the field of constitutional civil rights should also be as clearly and decisively acknowledged and met. There is more than adequate precedent for the creation of a Civil Rights Commission as proposed in this bill, and there is more than an abundance of need for such a commission.

Part 2—Civil Rights Division, Department of Justice

Section 111 calls for the appointment of an additional Assistant Attorney General to be in charge, under the direction of the Attorney General, of a Civil Rights Division of the Department of Justice.

Section 112 makes provision for increasing, to the extent necessary, the personnel of the Federal Bureau of Investigation to carry out the duties of the Bureau in respect of investigation of civil-rights cases; and for the Bureau to include special training of its agents for the investigation of civil-rights cases.

As I have pointed out, the Civil Rights Section is but one small unit of the Criminal Division of the Department. It has averaged during the 10 years of its existence (having been created in February 1939 by Attorney General, now Mr. Justice, Frank Murphy) from six to eight attorneys who are responsible for supervising the enforcement of the Federal civil-rights laws throughout the Nation. The necessary investigative work is done by the Federal Bureau of Investigation, pursuant to the request of and in cooperation with the section and the United States attorneys, but coordination and policy are effected and determined by the section, with the approval of the Assistant Attorney General in charge of the Criminal Division. The following is an observation by the President's committee:

"The Civil Rights Section's name suggests to many citizens that it is a powerful arm of the Government devoting its time and energy to the protection of all our valued civil liberties. This is, of course, incorrect. The section is only one unit in the Criminal Division of the Department of Justice. As such, it lacks the prestige and authority which may be necessary to deal effectively with other parts of the Department and to secure the kind of cooperation necessary to a thoroughgoing enforcement of civil-rights law. There have been instances where the section has not asserted itself when United States attorneys are uncooperative or investigative reports are inadequate. As the organization of the Department now stands, the section is in a poor position to take a strong stand in such contingencies" (report, p. 125).

The Assistant Attorney General in charge of the Criminal Division, as you know, is responsible for the enforcement of a multitude of criminal laws, ranging from espionage and sedition to the Mann Act and the Lindbergh law, and from the Fair Labor Standards Act to the postal laws. He must, of necessity, devote a great deal of his time to the many important matters faced by his division in addition to those presented through the Civil Rights Section.

The section, in addition to the enforcement of the civil rights and slavery and peonage statutes, is responsible for the enforcement of the criminal provisions of the Fair Labor Standards Act (29 U. S. C. 201 et seq.); the penalty provisions of the Safety Appliance Acts, dealing with railroads (45 U. S. C. 1 et seq.); the Kickback Act (18 U. S. C. 874); the Hatch Political Activity Act; and other statutes relating to elections and political activities (18 U. S. C. 591-612); and sundry statutes designed or capable of being employed to protect the

civil rights of citizens to promote the welfare of workingmen, to safeguard the honesty of Federal elections, and to secure the right of franchise to qualified citizens. (For example, Railway Labor Act, 45 U. S. C. 152; or the statute relating to the transportation of strikebreakers, 18 U. S. C 1231.)

Due to the limitations under which the section necessarily operates and has operated, it has not undertaken to police civil rights. The only cases it has handled are those which were brought to its attention by complainants, either directly or through the Federal Bureau of Investigation, the United States attorneys, or other Government agencies. Nevertheless, it has received a great number of letters and complaints. The section has received about 10,000 letters each year concerning civil liberties. (See appendix B) The majority of these letters make clear the misconception which most members of the general public share regarding the scope of present Federal powers It is estimated that only one-fifth of the letters involved a complaint of a possible deprivation of a right now federally secured. However, since the report of the President's Committee was issued in October 1947, a clearer awareness of the Federal Government's function in the field has apparently been created, and a larger number of civil rights complaints of some substance, appropriate for Federal attention, have been received.

In addition to the civil rights cases, a large number of intricate cases involving alleged crimes in the field of elections and political activities have been received by the section, many from members of the Congress. And, of course, a steady volume of prosecutions under the Fair Labor Standards Act and the miscellaneous statutes handled by the section adds to the burden.

As stated by the President's committee:

"At the present time the Civil Rights Section has a complement of seven lawyers, all stationed in Washington. It depends on the FBI for all investigative work, and on the regional United States attorneys for prosecution of specific cases. Enforcement of the civil rights statutes is not its only task It also administers the criminal provisions of the Fair Labor Standards Act, the Safety Appliance Act, the Hatch Act, and certain other statutes. It is responsible for processing most of the mail received by the Federal Government which in any way bears on civil rights. Although other resources of the Department of Justice are available to supplement the Civil Rights Section staff, the section is the only agency in the Department with specialized experience in civil rights work. This small staff is inadequate either for maximum enforcement of existing civil rights statutes, or for enforcement of additional legislation such as that recommended by this committee.

"The committee has found that relatively few cases have been prosecuted by the section, and that in part this is the result of its insufficient personnel. The section simply does not have an adequate staff for the careful, continuing study of civil rights violations, often highly elusive and technically difficult, which occur in many areas of human relations" (report, pp. 119–120).

Appendix B, attached hereto, contains a statistical summary of the work of the Civil Rights Section.

Notwithstanding the difficulties and limitations under which the section labors, it is called upon to deal with essential civil rights activities beyond the strict duties of prosecuting criminal cases. It assisted the Solicitor General in the preparation of the amicus curiae brief submitted by the Department to the Supreme Court in the restrictive covenant cases (*Shelley* v. *Kraemer*, 334 U. S 1 (1948), and it has aided the office of the Assistant Solicitor General in cooperating with the State Department in connection with United States participation in the preparation by the United Nations of the Universal Declaration of Human Rights and of a proposed covenant to enforce some of these rights. The section has assigned attorneys to the preparation and argument of appellate civil rights cases and has sent attorneys to the field in connection with the investigation and prosecution of difficult and complicated cases, including election crimes matters.

The President in his message on civil rights to the Congress, as one of the steps to be taken to strengthen the organization of the Federal Government to enforce civil-rights laws, specifically recommended "that the Congress provide for an additional Assistant Attorney General" to supervise a Civil Rights Division in the Department of Justice. This recommendation is incorporated in the present bill.

With the creation of the Civil Rights Division, all the above-described necessary activities could be conducted with greater thoroughness and dispatch, and important tasks, not now undertaken, could be assumed. The civil rights enforce-

ment program would be given "prestige, power, and efficiency that it now lacks" (report, p 152) Enactment of the President's program on civil-rights legislation would, of course, necessitate an increase in staff to cope with the increase in burdens An expanded organization on divisional lines can meet the added requirements, but is certainly important even in the present situation. In the words of the executive secretary of the President's Committee on Civil Rights, "With an expanded staff * * * the Civil Rights Section would be in a better position to search out civil-liberty violations and to take action designed to prevent violations. It would not have to limit self, as it has in the past, to taking action after complaints are filed by outside persons. For example, there are sometimes advance warnings when a lynching is threatened, and when such warning signs are seen, the Civil Rights Section could send an agent of its own into the danger area or exercise greater authority to direct the activities of the Federal Bureau of Investigation agents Such early action might frequently deter persons from contemplated unlawful conduct At least it would place Federal officers in a position to obtain evidence promptly should an offense under civil-rights legislation be committed This might make it possible to avoid the result that prevailed in the 1946 lynchings at Monroe, Ga. In that instance, extensive but belated Federal investigations could produce no evidence leading to an indictment of the culprits" (Robert K. Carr, "Federal Protection of Civil Rights—Quest for a Sword," p. 209).

To constitute an efficient and complete organization, the Division would include specialized units devoted to the enforcement of the criminal civil-rights statutes, the enforcement of the peonage and slavery statutes, the enforcement of the election and political activities laws, the administration of the labor and related laws, and legal and factual research and appeals. An important function to be developed, with the aid of legal tools which this bill can provide, is greater use of preventive civil remedies, wherein the Attorney General may proceed in the public interest, not by way of punishment, but to prevent and enjoin threatened infringements and deprivations of rights An expanded Division would not only deal in such matters but also ought to be prepared to intervene in important litigation affecting civil rights. Even now, under the few current statutes, court construction of the existent civil remedy provisions has serious bearing upon the criminal cases, and vice versa, since the language of both is regarded substantially in pari materia (See *Picking* v *Pa R R. Co.*, 151 F (2) 240, rehearing denied 152 F (2d) 753.)

In addition, an increase in the civil-rights staff would serve an essential purpose by providing skilled attorneys who could go into the field to coordinate activities and supervise investigations, as well as try cases and argue appeals. At the present time, practically all of those functions, especially the trial work, must be handled as best can be by the United States attorneys who, of course, are responsible for many other kinds of cases, both civil and criminal, involving interests of the United States.

With regard to the investigative work in the enforcement of the civil-rights statutes, I have already observed that this is done by the Federal Bureau of Investigation The FBI is, of course, concerned with the enforcement of most of the Federal criminal statutes and of necessity can assign only a limited number of agents to civil-rights work The facilities of the Bureau have been severely taxed on many occasions when important and involved cases required investigation and they have been consistently used practically to the maximum in investigating the continued volume of complaints In spite of these handicaps, the Bureau has done a splendid job in civil-rights cases. Any increase in the activities of the present section (or a new division) would require a corresponding increase in the work of the Bureau—a fact which is recognized in the bill.

Part 3—Joint Congressional Committee on Civil Rights

Section 121 establishes a Joint Congressional Committee on Civil Rights to be composed of 14 members—7 Senators to be appointed by the President of the Senate, and 7 Members of the House Representatives to be appointed by the Speaker—with due regard for party representation.

Section 122 provides for the duties of the committee.

Section 123 deals with vacancies and selection of presiding officers.

Section 124 makes provision for hearings, power of subpena, and expenditures.

Section 125 provides for the formalities of disbursements.

Section 126 authorizes the use of advisory committees and consultation with public and private agencies.

The desirability and need for the establishment of a Joint Congressional Committee on Civil Rights, along with the recommended Commission in the execu-

tive branch and a Civil Rights Division in the Department of Justice, was stated by the President's Committee:

"Congress, too, can be aided in its difficult task of providing the legislative ground work for full civil rights. A standing committee, established jointly by the House and Senate, would provide a central place for the consideration of proposed legislation. It would enable Congress to maintain continuous liaison with the permanent Commission. A group of men in each chamber would be able to give prolonged study to this complex area and would become expert in its legislative needs" (report, p. 155).

Following the committee's report, the President in his message stated:

"I also suggest that the Congress establish a Joint Congressional Committee on Civil Rights This committee should make a continuing study of legislative matters relating to civil rights and should consider means of improving respect for and enforcement of those rights."

The President noted that the Joint Congressional Committee and the Commission on Civil Rights—

"together should keep all of us continuously aware of the condition of civil rights in the United States and keep us alert to opportunities to improve their protection."

It is appropriate at this point to quote from an early case by Mr Justice Story:

"The Constitution unavoidably deals in general language. It did not suit the purposes of the people, in framing this great charter of our liberties, to provide for minute specifications of its powers, or to declare the means by which those powers should be carried into execution. It was foreseen that this would be perilous and difficult, if not an impracticable task. The instrument was not intended to provide merely for the exigencies of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence. It could not be foreseen what new changes and modifications of power might be indispensable to effectuate the general objects of the charter; and restrictions and specifications, which, at the present, might seem salutary, might, in the end, prove the overthrow of the system itself. Hence, its powers are expressed in general terms, leaving to the legislature, from time to time, to adopt its own means to effectuate legitimate objects, and to mold and model the exercise of its powers, as its own wisdom, and the public interests, should require" (*Martin* v. *Hunter*, 14 U. S. (1 Wheat.) 304, 326 (1916)).

To enable "the legislature * * * to adopt its own means to effectuate legitimate objects," congressional committees are created and engage in continuous activitiy to keep the Congress fully informed in the several fields of Federal concern. Creation of the Joint Committee on Civil Rights would be a recognition of the great importance which the Congress attaches to the protection of the civil rights and liberties of the people.

Congress has, in recent years, enacted statutes creating joint congressional committees to survey, study, and investigate certain fields of enterprise and to make recommendations and reports as to necessary legislation and as otherwise may be deemed advisable. Thus, in the field of labor, a congressional Joint Committee on Labor-Management Relations was created by the Labor-Management Relations Act of 1947 (61 Stat. 160; 29 U. S. C. 191 et seq. (1947 Supp.)). The committee was required by law, among other things, "to conduct a thorough study and investigation of the entire field of labor-management relations * * *" (29 U. S. C. 192).

In the Atomic Energy Act of 1946 the Congress established a Joint Committee on Atomic Energy (60 Stat. 772; 42 U. S. C. 1815); and required it, among other things, to "make continuing studies of the activites of the Atomic Energy Commission and of problems relating to the development, use, and control of atomic energy."

Again in the Employment Act of 1946, the Congress established a joint committee, known as the Joint Committee on the Economic Report (60 Stat. 25; 15 U. S. C. 1024). This group was required by the law to "make a continuing study of matters relating to the economic report" required to be submitted by the President by another provision of the statute (15 U. S. C. 1022), to "study means of coordinating programs in order to further the policy of this chapter," and to report to both Houses of the Congress its findings and recommendations as specified. It may be noted again that by the Employment Act the Congress also created a commission in the executive branch, the Council of Economic Advisers in the Executive Office of the President. As indicated before, in discussing the proposed Civil Rights Commission, the Congress in the Employment Act recognized the need for a continuing agency in the executive branch

as well as in the Congress to survey the field in question and recommend and report in connection therewith.

The establishment of the foregoing joint committees, as well as of others, was in recognition of the need in our complex society for specialized agencies to keep abreast of developments in vital branches of American life so that new problems and difficult situations can be met without delay by agencies best equipped to do so. The need is no less vital in the field of constitutional rights and liberties.

TITLE II. PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

Part 1. Amendments and supplements to existing civil-rights statutes

Section 201: Among the existing civil-rights laws, already noted, is 18 U. S. C. 241 (which was 18 U. S. C. 51 prior to the 1948 revision of title 18; see appendix A). This is a criminal conspiracy statute which has been used to protect federally secured rights against encroachment by both private individuals and public officers. Several changes are proposed, pursuant to recommendations made by the President in his civil rights message (1948) to the Congress.

The phrase "inhabitant of any State, Territory, or District" is substituted for the word "citizen." This would bring the language into conformity with that of 18 U. S. C. 242 (formerly 18 U. S. C. 52; see appendix A), which is a generally parallel protective statute designed to punish State officers who deprive inhabitants of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. Section 241 has had a narrower construction because of the use of the word "citizen," as, for example, in *Baldwin* v. *Franks* (120 U. S. 678 (1887)), holding that an alien did not come within the protection of the section. On the other hand, in referring to the rights of "inhabitants," the language used in 18 U. S. C. 242 does not exclude from its scope protection of the rights which may happen to be accorded only to citizens, such as the right to vote. Thus, section 242, addressed to protecting the right of inhabitants, applies to the deprivation of constitutional right of qualified voters to choose representatives in Congress, and was held to protect the rights of voters in a primary election, which was prerequisite to the choice of party candidates for a congressional election, to have their votes counted, *United States* v. *Classic* (313 U. S. 299 (1941), rehearing denied, 314 U. S. 707). Since the Classic case also involved and upheld a conspiracy count under 18 U. S. C. 241 (then 18 U. S. C. 51), there would appear to be no danger of harm to the existing protection of Federal rights of citizens in extending section 241 to cover "inhabitants" as in section 242.

It should be noted that in *Baldwin* v. *Franks*, supra, doubt was expressed as to whether Congress had or had not used the word "citizen" in the broader or popular sense of resident, inhabitant, or person (120 U. S. 678, 690, see also dissent of Harlan, J., at pp. 695–698), which a majority of the Court resolved in favor of the narrower political meaning of citizen. In so doing the Court added: "It may be by this construction of the statute some are excluded from the protection it affords who are as much entitled to it as those who are included; but, that is a defect, if it exists, which can be cured by Congress, but not by the courts" (ibid., p. 692).

The fourteenth amendment protects "any person," not merely those who are citizens, from State actions in deprivation of life, liberty, or property without due process of law, or in denial of the equal protection of the laws. Hence, the proposed change in section 241 to inhabitant is without doubt within the power of Congress, as the Court indicated in the Baldwin case.

In addition to removing what appears to be an unnecessary technical limitation to "citizens," it may properly be urged, at this date, that the extension of coverage is in accordance with the general public policy of the United States, as subscribed to in the United Nations Charter, to promote respect for, and observance of, human right and fundamental freedoms for all.

Section 241 of title 18, United States Code, is a conspiracy provision. There is no legal reason why protection should be given only in cases of conspiracy. The President, in his message of February 2, 1948 (94 Congressional Record 960), as did the President's Civil Rights Committee (report, p. 156), recommended an extension to the cases of infringements by persons acting individually. That is the purport of new subsection (b). As a result the present section 241 is retained by numbering it subsection (a). It remains separately identifiable as the conspiracy provision, which has had a long history of interpretation and which has been sustained as constitutional against various forms of attack

(*Ex parte Yarbrough*, 110 U. S. 651 (1884); *Logan* v. *United States*, 144 U. S. 263 (1892); *United States* v. *Mosely*, 238 U. S. 383 (1915)).

An additional reason for separating the present conspiracy law, new subsection (a), from the proposed individual responsibility provision, new subsection (b), was the desire to adjust penalty provisions. It was thought that the action by a single individual condemned in section 241 (b) might parallel in penalty the individual violation in section 242 (a principal difference between the two sections is that the offender in sec. 242 is always a public officer). And since section 242 has always been criticized as being too mild for the serious cases (though otherwise advantageous, as discussed below in the comment under sec. 202), a more formidable penalty is provided for these cases in both 241 (b) and 242. As stated by the President's Committee—

"At the present time the act's (sec. 242) penalties are so light that it is technically a misdemeanor law. In view of the extremely serious offenses that have been or are being successfully prosecuted under section 52 (now 242), it seems clear that the penalties should be increased" (report, p. 156).

To bear out the committee's contention, reference need be made only to *Screws* v. *United States* (325 U. S. 91 (1945)), and *Crews* v. *United States* (160 F. (2d) 746 (C. C. A. 5, 1947)). The latter case involved the brutal murder by a town marshal of a defenseless victim. The Court pointed out the inherent shortcomings of present Federal enforcement under existing laws as follows:

"The defendant, although guilty of a cruel and inexcusable homicide, was indicted and convicted merely of having deprived his helpless victim of a constitutional right, under strained constructions of an inadequate Federal statute, and given the maximum sentence under that statute of 1 year in prison and a fine of $1,000" (ibid., p. 747).

Notwithstanding "the shocking details of the beating that Crews administered with a bull whip" upon the victim and the homicide which followed thereafter, the Government was able to proceed against Crews only on a misdemeanor charge. This defendant was never punished under State law.

Many instances of violations of the Federal civil-rights laws, which have come to our notice, also constitute serious offenses under State laws, which provide substantially more severe penalties than are provided by the present Federal civil-rights statutes, such as 18 U. S. C. 242. Unfortunately, however, where public opinion is indifferent, State officers, who violate the rights of persons less favored in the community, do escape local prosecution and punishment. Accordingly, while every effort is made to have State authorities proceed under local law against those who deprive others of their rights, the Department, when satisfied that the federally secured civil rights of a victim have been infringed, has felt bound to proceed under the Federal statutes, even though fully aware that in cases such as the Crews case the maximum punishment obtainable can never fit the crime.

The purpose of new subsection (c) of section 241 is to plug the gaps in the civil-remedy side. There already appears to be in existence a civil remedy for damages more or less covering the existing conspiracy violations of section 241 (a). This remedy is found in 8 U. S. C. 47 (appendix A). There is no parallel to cover proposed subsection (b), absent a conspiracy. In neither the case of subsection (a) nor subsection (b) is there clear-cut authorization for the bringing of proceedings other than for damages, unless the violators of sections 241 (a) and 241 (b) should happen to be State or Territorial officers (more often chargeable under 18 U. S. C. 242), in which case 8 U. S. C. 43 would appear to afford civil remedies ("in an action at law, suit in equity or other proper proceeding for redress"). See *Hague* v. *CIO* (307 U. S. 498 (1939)), a suit in equity against State officers. Parenthetically, for all practical purposes, 8 U. S. C. 43 is a parallel, on the civil side, of the criminal statute, 18 U. S. C. 242 (see *Picking* v. *Pa. R. R. Co.*, 151 F. (2d) 240 (1945), rehearing denied 152 F. (2d) 753); and it appears adequate to cover the situations on the civil side, which are similar to the criminal violations of 18 U. S. C. 242, without requiring further amendment or supplement of section 242 in that regard.

The jurisdictional provision of new subsection (c) of section 241, under which both the Federal district courts and the State and Territorial courts shall have jurisdiction of the civil proceedings, is well fortified with precedents. A similar provision in the Emergency Price Control Act of 1942 (50 U. S. C. A. App., secs. 925 (c) and 942 (k)), was recently sustained in *Testa* v. *Katt* (330 U. S. 386 (1947)). For an earlier example, under the Federal Employers' Liability Act, see *Mondou* v. *N. Y. N. H. etc. R. R. Co.* (223 U. S. 1 (1912)).

The portion of the proposed jurisdictional provision which reads "without regard to the sum or value of the matter in controversy" has been inserted to avoid misapprehension in these cases that jurisdiction of the Federal district courts is subject to the $3,000 or more requirement of 28 U. S. C. 1331. The latter is a general jurisdictional provision. Exempted from it are the existing civil rights actions maintainable in the district courts, under 28 U. S. C. 1343, without regard to money value. *Douglas* v. *City of Jeannette* (319 U. S. 157 (1943), rehearing denied, ibid., 782); *Hague* v *CIO* (307 U. S. 498) However, paragraphs (1) and (2) of 28 U. S. C. 1343 refer specifically to suits for damages growing out of the conspiracy provisions of 8 U. S. C. 47, and paragraph (3) follows closely the language of 8 U. S. C. 43, apparently dealing only with suits against public officers—"to redress the deprivation under color of any law, etc." (28 U. S. C. 1343 (3)). In consequence, it does not appear that 28 U. S. C. 1343 covers all of the civil-rights cases for which it is now proposed to create civil actions Hence, the need for a provision which obviates a possible judicial construction placing the new causes of action under the provisions of 28 U. S. C. 1331 and its money value requirement.

Section 202: This section amends 18 U. S. C. 242 (see appendix A), but leaves it intact except in regard to the matter of penalty. As already indicated in the discussion of the previous section, this is a statute which is used to protect federally secured rights against encroachment by State officers. There has been criticism that the penalty of a fine not more than $1,000 or imprisonment of not more than 1 year, or both, is too light in the serious cases On the other hand, the increase of the prison term would change the nature of the offense from a misdemeanor to a felony, with a loss of the facility the Government now enjoys in being able to prosecute by information rather than by the more cumbersome method of proceeding by indictment (18 U. S. C. 1, *Catlette* v. *United States*, 132 F. (2d) 902 (1943)) Accordingly, it is deemed preferable to leave the general punishment at the misdemeanor level, but in cases where the wrong results in death or maiming, to provide for the greater penalty. On the civil side, as already observed in the comment on the preceding section, the existing remedies under 8 U. S. C. 43 appear adequate for this section.

Section 203: Provides a supplement to 18 U. S. C. 242 The intent is to provide an enumeration of some of the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States, of which inhabitants shall not be willfully deprived (which is the general language of 18 U. S. C. 242), in order to overcome what seems to be a handicap at trial in the use of section 242, as recently imposed in *Screws* v. *United States* (325 U. S. 91 (1945)). Pursuant to the Screws case, the Government in order to obtain a conviction under 18 U. S. C. 242, is required to prove, and the judge must adequately instruct the jury, that the defendant has "willfully" deprived his victim of a constitutional right, which specific right the defendant had in mind at the time. Proof of a general bad purpose alone may not be enough (325 U. S. 91, 103). See more recently to the same effect, *Pullen* v. *United States* (164 F. (2d) 756 (1947)), reversing a conviction for failure of the indictment and the judge's charge with respect to "willfully."

The enumeration of rights is of course only partial, and does not purport to enumerate all Federal rights running against officers But it is demonstrable that none of the enumeration creates any new right not heretofore sustained by the courts The following examples are cited:

1 The right to be immune from exactions of fines without due process of law (*Culp* v. *United States*, 131 F. (2d) 93 (1942)) (imprisonment by State officer without cause and for purposes of extortion is denial of due process and an offense under 18 U. S. C. 242, formerly 52)

2. The right to be immune from punishment for crime except after fair trial and due sentence (*Screws* v. *United States*, 325 U. S. 91 (1945)) (sheriff beating prisoner to death may be punishable under 18 U. S. C. 242, formerly 52); *Crews* v. *United States* (160 F. (2d) 746 (1947)) (sheriff making arrest and, without commitment or trial, causing death of prisoner by forcing him to jump into a river violated 18 U. S. C. 242, formerly 52); *Moore* v. *Dempsey* (261 U. S. 86 (1923)) (conviction in State trial under mob domination is void); *Mooney* v. *Holohan* (294 U. S. 103 (1935)) (criminal conviction procured by State prosecuting authorities on perjured testimony, known by them to be perjured, is without due process).

3 The right to be immune from physical violence applied to exact testimony or to compel confession of crime, *Chambers* v. *Florida* (309 U. S. 227 (1940)) (convictions obtained in State courts by coerced confessions are void under

fourteenth amendment); *United States* v. *Sutherland* (37 F. Supp. 344 (1940)) (State officer using assault and torture to extort confession of crime violates 18 U. S. C. 242, formerly 52).

4. The right to be free of illegal restraint of the person (*Catlette* v. *United States*, 132 F. (2d) 902 (1943) (sheriff detaining individuals in his office and compelling them to submit to indignities violates 18 U. S. C. 242, formerly 52); *United States* v. *Trierweiller* (52 F. Supp. 4 (1943)) (sheriff and others attempting to arrest and killing transient, without justification, violated 18 U. S. C. 242, formerly 52).

5. The right to protection of person and property without discrimination by reason of race, color, religion, or national origin (*Catlette* v. *United States*, 132 F. (2d) 902 (1943)) (sheriff subjecting victims to indignities by reason of their membership in a religious sect and failing to protect them from group violence violates 18 U. S. C. 242, formerly 52); *Yick Wo* v. *Hopkins* (118 U. S. 356 (1886)) (unequal administration of State law, because of a person's race or nationality, resulting in his being deprived of a property right, is a denial of rights under the fourteenth amendment).

6. The right to vote as protected by Federal law (*United States* v. *Classic*, 313 U. S. 299 (1941), rehearing denied 314 U. S. 707) (violation of right of qualified voters in primary election for congressional candidate to have their votes counted, punishable under 18 U. S. C. 242, formerly 52); *United States* v. *Saylor* (322 U. S. 385 (1944), rehearing denied 323 U. S. 809) (right of voter in a congressional election to have his vote honestly counted is violated by a conspiracy of election officials to stuff the ballot box, and is punishable under 18 U. S. C. 241, formerly 51); *Smith* v. *Allwright* (321 U. S. 649 (1944), rehearing denied 322 U. S. 769) (right of a citizen to vote in primary for candidates for Congress is a right which may not be abridged by a State on account of race or color, and damages are recoverable for violation under 8 U. S. C. 43).

The great majority of our people are secure in their homes, their property, and their persons under the protections extended through the offices of the State, county, and municipal authorities Police protection is generally taken for granted. But an unfortunately large number of our people are not thus secure; they live in fear and distrust. They fear not only their neighbors but the authorities who by law are chosen to protect them. When these authorities themselves invade their rights, or refuse to protect them against others, there is none but the Federal Government to aid them.

In the words of the President's Committee:

"Freedom can exist only where the citizen is assured that his person is secure against bondage, lawless violence, and arbitrary arrest and punishment. Freedom from slavery in all its forms is clearly necessary if all men are to have equal opportunity to use their talents and to lead worthwhile lives Moreover, to be free, men must be subejct to discipline by society only for commission of offenses clearly defined by law and only after trial by due process of law. Where the administration of justice is discriminatory, no man can be sure of security. Where the threat of violence by private persons or mobs exists, a cruel inhibition of the sense of freedom of activity and security of the person inevitably results. Where a society permits private and arbitrary violence to be done to its members, its own integrity is inevitably corrupted. It cannot permit human beings to be imprisoned or killed in the absence of due process of law without degrading its entire fabric" (Report, p. 6).

Section 204 amends 18 United States Code 1583, formerly 443 (see appendix A). This is a statute, enacted under the plenary power of the thirteenth amendment to the United States Constitution, punishing the kidnapping or enticing of persons for purposes of subjecting them to slavery or involuntary servitude. The amendment purports to make clear that the holding in involuntary serviture is punishable. A discussion of the doubt and the causes thereof, with respect to the existing provision, is found in 29 Cornell Law Quarterly 203. The insertion of "other means of transportation" is simply to bring the statute up to date by supplementing the word "vessel."

Insertion of the words "within or beyond the United States" was to settle any question that an enticement on board a vessel, etc., with intent that one be made a slave or held in involuntary serviture, applies within as well as outside the country.

Part 2—Protection of right to political participation

Section 211 is an amendment of section 1 of the present Hatch Act, formerly 18 United States Code 61, now 594 (see appendix A). This section of the Hatch Act presently makes punishable intimidation and coercion for the purpose of

interfering with the right of another to vote as he chooses at elections for national office. The purpose of the amendment is to make the provisions applicable to primary and special elections as well as to general elections for Federal office. The existing language is "any election" (for the named offices). The amendment would make it "any general, special or primary election" (for the named offices).

The Hatch Act was enacted in 1939 at a time when, due to the decision in *Newberry* v. *United States* (256 U. S. 232 (1921)), there was doubt in Congress as to the constitutionality of Federal regulation of nominating primaries. This doubt was resolved in 1941, in favor of Federal power, by *United States* v. *Classic* (317 U. S. 299 (1941), 324, fn. 8). Nevertheless, in view of the legislative history, companion sections to section 1 of the Hatch Act were construed, since the Classic case, not to include primary elections, *United States* v. *Malphurs* (41 F. Supp. 817 (1941)), vacated on other grounds (316 U. S. 1). Accordingly, the amendatory insertion, above, is necessary notwithstanding the generality of the existing language "any election," etc.

Section 212 is an amendment of one of the old existing civil-rights statutes, enacted as part of the act of May 31, 1870, and which became section 2004 of the Revised Statutes (8 U. S. C. 31, see appendix A). Section 2004 presently declares it to be the right of citizens to vote at any election by the people in any State, Territory, county, municipality, or other territorial subdivision without distinction as to race, color, or previous condition of servitude.

As originally drafted, it was the first section of the act of May 31, 1870, and depended upon remedies provided in other sections of that act and later acts, parts of which were held unconstitutional or repealed. In order to avoid any question as to the kind of punishment or remedy which is available in vindication or protection of the stated right, the amendment inserts a specific reference to the two basic criminal- and civil-remedy provisions directed at State officers: namely, 18 United States Code 242 and 8 United States Code 43. The latter, providing civil remedies, has already been successfully applied in the past to the present statute (8 U. S. C. 31) in a number of cases such as *Nixon* v. *Herndon* (273 U. S. 536 (1927)), *Nixon* v. *Condon* (286 U. S. 73 (1932)), *Smith* v. *All-Wright* (321 U. S. 649 (1944)), and *Chapman* v. *King* (154 F. (2d) 460 (1946)); certiorari denied (327 U. S. 800). There appears to be no parallel history of applying the corresponding criminal sanctions of 18 United States Code 242 to 8 United States Code 31, although in *United States* v. *Stone* (188 Fed. 836 (1911)), and indictment under section 20 of the Criminal Code (18 U. S. C. 52, now 18 U. S. C. 242), charging that State officials acting under color of State law deprived Negroes of their vote or made it difficult for them to vote their choice at a congressional election, was sustained against a demurrer. Indeed, it was not until the comparatively recent decision in the Classic case ((1941), 313 U. S. 299), that the potentialities of 18 United States Code 242 in protecting voting rights became evident. 8 United States Code 43 and 18 United States Code 242 are, as stated, regarded in pari materia with respect to the nature of the offense charged (*Picking* v. *Pa. R. R. Co.*, 151 F. (2d) 240 (1945); rehearing denied, 152 F. (2d) 753).

The phrase "and other applicable provisions of law" is designed to preclude any implication that by specifying two statutory sections there is an exclusion of other sections of the criminal and civil statutes, which by operation of law and construction are part of the legal arsenal in the use of the specified sections. Thus, under existing law, the same offense under 18 United States Code 242 may, because of a conspiracy, give rise to an added count in the indictment for a violation of 18 United States Code 241 (*United States* v. *Classic*, 313 U. S. 299 (1941)) (conspiracy of public officers); or a prosecution solely under 18 United States Code 241 (*United States* v. *Ellis*, 43 F. Supp. 321 (1942)) (conspiracy of public officers and private individuals); or a prosecution under 18 United States Code 371 (formerly 18 U. S. C. 88) and 18 United States Code 242 (*United States* v. *Trierweiller*, 52 F. Supp. 4 (1943)) (conspiracy of public officers and private individuals). It is intended that these and any other such remedies shall be available.

A number of changes in language have been made both in the interest of modernizing the old phraseology and closing certain obvious holes now open for construction. For example, insertion of the phrase "general, special, or primary" in describing "election by the people" is intended to avoid any handicaps of earlier legislative history noted, supra, in the comment on the similar problem in connection with amending the Hatch Act.

One change in verbiage deserves special comment. The present statute speaks only of distinction of race, color, or previous condition of servitude. The words "previous condition of servitude" have been dropped as unnecessary, since the slaveholding days are far removed. In their place have been substituted the words "religion or national origin" (consistent with other nondiscriminatory provisions of this bill).

It is clear that the existing guaranty against distinctions in voting based on race or color is expressly authorized by the fifteenth amendment (*United States* v. *Reese*, 92 U. S. 214 (1874); *Smith* v. *Allwright*, 321 U. S. 649 (1944)) and is validly applicable in all elections, whether Federal, State, or local (*Chapman* v. *King*, 154 F. (2d) 460 (1946); certiorari denied, 327 U. S. 800). In addition, the present statute has been sustained under the equal-protection clause of the fourteenth amendment (*Nixon* v. *Herndon*, 273 U. S. 536 (1927); *Nixon* v. *Condon*, 286 U. S. 73 (1932)), which clause also is the source for the claim that distinctions in voting based on religion or national origin are arbitrary and unreasonable classifications both as they appear in State laws (cf. *Cantwell* v. *Connecticut*, 310 U. S. 296 (1940); *Truax* v. *Raich*, 239 U. S. 33 (1915); *Oyama* v. *California*, 332 U. S. 633 (1948)) or in the administration of such laws (*Yick Wo* v. *Hopkins*, 118 U. S. 356 (1886)). See also *Hirabayashi* v. *United States* (320 U. S. 81, 100 (1943)), wherein the Court recognized that, as a general rule, "Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality." Moreover, the instant statute deals with the right of citizens to vote, and it could easily be regarded as an infringement upon the exclusively Federal naturalization power for States to deny, or differently accord, to citizens voting rights based on the national origin of such citizens, wholly apart from the aspect of an unreasonable classification. Confer *Truax* v. *Raich* (239 U. S. 33, 42 (1915)), where the Court took the view that for a State to deny or limit aliens in the right to work in private employment would interfere with the power of Congress to control immigration.

Section 213 is designed to supplement section 211 of this part by creating civil remedies for violations of that section, and to authorize for both sections 211 and 212 of this part the bringing of suits by the Attorney General in the district courts for preventive, declaratory, or other relief. The reason for this seemingly uneven application is that 18 United States Code 594, which section 211 amends, already contains criminal penalties but has no clear civil remedy. On the other hand, section 212 has specifically rewritten 8 United States Code 31 to contain within itself references to both criminal penalties and civil remedies, since the existence of the former was not clear and the latter existed by construction. In addition, as to both sections, there is need for recognition of the right of public authority to take timely civil measures in heading off threatened denials of the right to vote.

With respect to the jurisdictional provisions, the precedents for State-court jurisdiction are cited in the analysis of part 1, section 201, supra. The need for specifically excluding regard to the sum or value of the matter in controversy, so far as the United States district courts are concerned, is also explained in the analysis of part 1, section 201, supra. No similar reference is needed in the case of suits by the Attorney General, since the Federal district courts obtain jurisdiction in a suit where the United States is a party plaintiff regardless of the amount at issue (28 U. S. C. 1345; *United States* v. *Sayward*, 160 U. S. 493; *United States* v. *Conti*, 27 F. Supp. 756; *R. F. C.* v. *Krauss*, 12 F. Supp. 4).

On the question of the need and desirability of the amendments and other provisions to be effectuated by this part of the bill, the President said in his civil-rights message to the Congress (1948):

"We need stronger statutory protection of the right to vote. I urge the Congress to enact legislation forbidding interference by public officers or private persons with the right of qualified citizens to participate in primary, special, and general elections in which Federal officers are to be chosen. This legislation should extend to elections for State as well as Federal officers insofar as interference with the right to vote results from discriminatory action by public officers based on race, color, or other unreasonable classification."

In somewhat more detail, the President's Committee on Civil Rights, recommending legislation which would apply to Federal elections and primaries, said:

"There is no doubt that such a law can be applied to primaries which are an integral part of the Federal electoral process or which affect or determine the result of a Federal election. It can also protect participation in Federal election campaigns and discussions of matters relating to national political issues.

This statute should authorize the Department of Justice to use both civil and criminal sanctions Civil remedies should be used wherever possible to test the legality of threatened interferences with the suffrage before voting rights have been lost" (Report p. 160).

And the Committee also recommended—

"The enactment by Congress of a statute protecting the right to qualify for, or participate in, Federal or State primaries or elections against discriminatory action by State officers based on race or color, or depending on any other unreasonable classification of persons for voting purposes.

"This statute would apply to both Federal and State elections, but it would be limited to the protection of the right to vote against discriminatory interferences based on race, color, or other unreasonable classification. Its constitutionality is clearly indicated by the fourteenth and fifteenth amendments. Like the legislation suggested under (2), it should authorize the use of civil and criminal sanctions by the Department of Justice" (Report, pp 160, 161).

Part 3—Prohibition against discrimination or segregation in interstate transportation

Section 221 (a) declares that all persons traveling within the jurisdiction of the United States shall be entitled to equal treatment in the enjoyment of the accommodations of any public conveyance or facility operated by a common carrier engaged in interstate or foreign commerce without discrimination or segregation based on race, color, religion, or national origin.

Section 221 (b) makes punishable by fine (no imprisonment), and subject to civil suit, the conduct of anyone who denies or attempts to deny equal treatment to travelers of every race, color, religion, or national origin, in the use of the accommodations of a public conveyance or facility operated by a common carrier engaged in interstate or foreign commerce. Civil suits may be brought in the State courts as well as the Federal district courts.

Section 222 makes it unlawful for the common carrier engaged in interstate or foreign commerce or any officer, agent, or employee thereof to segregate or otherwise discriminate against passengers using a public conveyance or facility of such carrier engaged in interstate or foreign commerce on account of the race, color, religion, or national origin of such passengers Violations are subject to fine and civil suit, the latter being cognizable in State as well as Federal courts

This part is needed to both implement and supplement existing Supreme Court decisions and acts of Congress, as recommended by the President and the Committee on Civil Rights (Report, p. 170).

In a recent case, *Bob-Lo Excursion Co.* v. *Michigan* (333 U S. 28 (1948)), the Supreme Court had occasion to consider the validity of the Michigan civil rights law applied to a steamboat carrier transporting passengers from Detroit to an island which is a part of Canada. Although the carrier was engaged in foreign commerce, the Court laid aside this aspect in view of particular localized circumstances and held that the prohibition of the State law against discrimination for reasons of race or color was valid and applicable to the carrier. Mr. Justice Rutledge, speaking for the Court said (at p. 37, note 16)—

"Federal legislation has indicated a national policy against racial discrimination in the requirement, not urged here to be specifically applicable in this case of the Interstate Commerce Act that carriers subject to its provisions provide equal facilities for all passengers (49 U S. C., sec. 3 (1)), extended to carriers by water and air (46 U S. C., sec. 815; 49 U S C., secs. 484, 905). Cf. *Mitchell* v. *United States* (313 U. S 80) Federal legislation also compels a collective bargaining agent to represent all employees in the bargaining unit without discrimination because of race (45 U S C., sec 151 et seq); *Steel* v. *Louisville & Nashville R Co* (323 U S. 192); *Tunstall* v *Brotherhood of Locomotive Firemen & Enginemen* (323 U S 210) The direction of national policy is clearly in accord with Michigan policy. Cf also *Hirabayashi* v. *United States* (320 U S 81); *Korematsu* v. *United States* (323 U S 214); *Ex parte Endo* (323 U S 283) "

There is little doubt as to the direction of national policy, referred to in the Bob-Lo case Instrumentalities of interstate and foreign commerce are being cleared of the obstructing influences of discrimination and segregation. Prejudices, advantages, and discrimination have been forbidden for many years by the Interstate Commerce Act (49 U. S C 3; *Mitchell* v *United States*, 313 U S 80 (1941)) In *Morgan* v *Virginia* (328 U S. 373 (1946)), the Supreme Court held that a State statute requiring segregation of the races in motor

busses was unconstitutional in the case of an interstate passenger, as a burden on interstate commerce. See also *Matthews* v. *Southern Ry. System* (157 F. (2d) 609 (1946)), indicating that there is no different rule in the case of railroads.

The civil rights section has found that notwithstanding the ruling of the Supreme Court in the Morgan case, local law-enforcement officers have arrested and caused the detention and fine of Negro passengers who refused to move to a seat or car reserved for Negroes. Of the several complaints in such matters received within the past 2 years, three investigations were instituted. In each of these cases it was reported that the officers involved had violated the rights of the passengers to be free from unlawful arrest, since the officers were without authority to effect the arrest. However, in the absence of a clearly stated statutory basis for prosecution, and in view of the handicap in attempting to proceed under the limitations placed upon the existing general civil rights laws by the Supreme Court (*Screws* v. *United States*, 325 U. S. 91 (1945)), none of these cases was prosecuted. It was determined that the officers in question probably acted without the requisite specific intent necessary to constitute a violation of the constitutional rights of the passengers under the general statutes, as required by the Screws case; rather that they were acting in ignorance and in an effort to cooperate with the railroads involved.

Proposed section 221 would remove any doubts on this score, and would declare the rights of passengers to be free of discrimination and segregation in interstate and foreign commerce on account of race, color, religion, or national origin. It would put all persons, including public officers, on clear notice of the rights of passengers.

The proposed section would also make the carrier and its agents responsible for their participation in any such unlawful practices. It will be remembered that the Morgan case dealt only with State law, and not with the action of the interstate carriers themselves, *Morgan* v. *Virginia* (328 U. S. 373, 377, fn. 12 (1946),) who have continued to segregate, *Henderson* v. *Interstate Commerce Commission* (50 F. Supp. 32 (1948) (appeal pending, jurisdiction noted, ——— U. S.———, March 14, 1949; the Government will urge reversal).

In cases involving the carriers and certain segregation practices or requirements, which the court felt overstepped the bounds of existing law, the Supreme Court has stated on several occasions that constitutional rights are personal and not racial, *Mitchel* v. *United States* (313 U S. 80, 96 (1941)); *McCabe* v. *A. T. and S. F. Ry. Co.* (235 U. S. 151, 161 (1941)) (see also the restrictive covenants case for enunciation of the same principle in another field, *Shelley* v. *Kraemer* (334 U. S. 1, 22 (1948)). The action of the Congress is needed to give unequivocal effect to this principle in interstate travel. As stated in the President's message on civil rights—

"The channels of interstate commerce should be open to all Americans on a basis of complete equality. The Supreme Court has recently declared unconstitutional State laws requiring segregation on public carriers in interstate travel. Company regulations must not be allowed to replace unconstitutional State laws. I urge the Congress to prohibit discrimination and segregation, in the use of interstate transportation facilities, by both public officers and the employees of private companies."

It is submitted that passage of this part would remove all doubts on the subject and would bring to a conclusion a long process of making carrier facilities available to all without distinction because of race or color. Expensive, involved litigation has accomplished a great deal. But an express statement of congressional policy is desirable to accelerate an ending of this source of constant friction and irritation in interstate commerce.

I would like to proffer one final, general comment with regard to the whole of this proposed legislative effort. It is stated in the words of the President's committee, and I should like to make them, at this point, my own words

"The argument is sometimes made that because prejudice and intolerance cannot be eliminated through legislation and Government control, we should abandon that action in favor of the long, slow, evolutionary effects of education and voluntary private efforts. We believe that this argument misses the point and that the choice it poses between legislation and education as to the means of improving civil rights is an unnecessary one. In our opinion, both approaches to the goal are valid, and are, moreover, essential to each other.

"It may be impossible to overcome prejudice by law, but many of the evil discriminatory practices which are the visible manifestations of prejudice can be brought to an end through proper Government controls" (Rept. p. 103.)

APPENDIX A

§ 241 (18 U. S. Code) CONSPIRACY AGAINST RIGHTS OF CITIZENS

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than $5,000 or imprisoned not more than 10 years, or both.

§ 242 (18 U. S. Code) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains or penalties, on account of such inhabitant being an alien or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

§ 243 (18 U. S. Code) EXCLUSION OF JURORS ON ACCOUNT OF RACE OR COLOR

No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State on account of race, color, or previous condition of servitude; and whoever, being an officer or other person charged with any duty in the selection or summoning of jurors, excludes or fails to summon any citizen for such cause, shall be fined not more than $5,000.

§ 594 (18 U. S. Code) INTIMIDATION OF VOTERS

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

§ 43 (8 U. S. Code) CIVIL ACTION FOR DEPRIVATION OF RIGHTS

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

§ 47 (8 U. S. Code) CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS

(1) *Preventing officer from performing duties.*—If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) *Obstructing justice; intimidating party, witness, or juror.*—If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two

or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) *Depriving persons of rights or privileges.*—If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

§ 31 (8 U. S. Code) RACE, COLOR, OR PREVIOUS CONDITION NOT TO AFFECT RIGHT TO VOTE

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

§ 41 (8 U. S. Code) EQUAL RIGHTS UNDER THE LAW

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

§ 42 (8 U. S. Code) PROPERTY RIGHTS OF CITIZENS

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

§ 56 (8 U. S. Code) PEONAGE ABOLISHED

The holding of any person to service or labor under the system known as peonage is abolished and forever prohibited in any Territory or State of the United States; and all acts, laws, resolutions, orders, regulations, or usages of any Territory or State, which have heretofore established, maintained, or enforced, or by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, be declared null and void.

§ 1518 (18 U. S. Code) PEONAGE; OBSTRUCTING ENFORCEMENT

(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(b) Whoever obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be liable to the penalties prescribed in subsection (a).

§ 1583 (18 U. S. Code) ENTICEMENT INTO SLAVERY

Whoever kidnaps or carries away any other person, with the intent that such other person be sold into involuntary servitude, or held as a slave; or

Whoever entices, persuades, or induces any other person to go on board any vessel or to any other place with the intent that he may be made or held as a slave, or sent out of the country to be so made or held—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both

§ 1584 (18 U. S. Code) SALE INTO INVOLUNTARY SERVITUDE

Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be fined not more than $5,000 or imprisoned not more than five years, or both

APPENDIX B

The Civil Liberties Section (now Civil Rights Section) was established on February 6, 1939, for the purpose of handling all problems and supervising all prosecutions involving interference with the ballot, peonage, the strikebreaking statute, shanghaiing men for service at sea, conspiracies to violate the National Labor Relations Act, the intimidation of persons for having informed the Departments of the Government of matters pertinent to their functions, and other infringements of civil rights On February 5, 1944, the Section was reorganized to extend its duties to enforcement of Fair Labor Standards Act, Hours of Service Act, Safety Appliance Act, Kick-back Act, Walsh-Healey Act, Soldiers' and Sailors' Civil Relief Act, and the Reemployment Section of the Selective Training and Service Act of 1940, and the name of the Section was changed to "Civil Rights Section"

During the 10 years following the establishment of the Civil Liberties Section, approximately 100,000 complaints have been received involving real or imagined civil-rights matters Though there is some duplication of complaints involved in this figure, the vast majority of them are distinct individual complaints. Totals of mail handled in connection with pressure campaigns on particular cases are not included in this total The Section conducts about 400 personal interviews with complainants and visitors each year Following is a résumé of the volume of work which has been handled in the Section:

Civil rights and political cases

In 1939, three outstanding civil-rights cases were tried. In addition to these, 24 persons were convicted for violation of Election laws.

In 1940, approximately 8,000 civil-rights complaints were received Forty investigations were undertaken in connection with Hatch Act violations. Of these, 16 were completed and prosecutions were recommended in 12 cases.

In 1941, six outstanding civil-rights, Hatch Act, and Election fraud cases were prosecuted Convictions were had in 5 cases. Grand juries returned no bills in 7 cases

During the fiscal year of 1942, 8,612 complaints were received, 224 investigations were requested and prosecutive action was taken in 76 cases. (170 personal interviews were had with complainants.)

In 1943, nine cases of outstanding importance were prosecuted.

During the fiscal year of 1944, 20,000 complaints were received in matters concerning civil rights, election crimes, reemployment under the Selective Training and Service Act and the Soldiers' and Sailors' Civil Relief Act. 356 investigations were conducted and 64 prosecutions were undertaken during the year. 75 cases which involved the Soldiers' and Sailors' Civil Relief Act of 1940 were received

During the fiscal year of 1945, 4,421 complaints were received and 139 investigations conducted Prosecutions were undertaken in 32 cases. Pleas of nolo contendere were entered in 23 cases No bills were returned in seven instances and one case was before the Supreme Court Prosecution was undertaken in 23 Election fraud cases, and pleas of nolo contendere were entered in all 23 cases

In the year ending June 30, 1946, 7,229 complaints were received in civil-rights and political cases 152 investigations and 15 prosecutions were undertaken. 5 convictions were secured, 7 cases were concluded adverse to the Government and one case was before the Supreme Court. 6 Election fraud cases were prosecuted and 2 convictions were secured in peonage cases.

In the fiscal year of 1947, 13,000 complaints were received, 241 investigations were instituted, and prosecutions were undertaken in 12 cases. Convictions were secured in 4 cases and 6 resulted in acquittals.

During the year ending June 30, 1948, approximately 14,500 complaints were received, 300 investigations were instituted, and 20 prosecutions undertaken.

It is estimated that 15,000 complaints will be received during the fiscal year 1949, and 300 investigations instituted.

Cases involving labor statutes

	Examined and referred to United States attorneys for prosecution	Penalties assessed
Fair Labor Standards Act cases (child labor, wage and hour, record keeping, and criminal contempt):		
1944	59	$80,123
1945	99	46,255
1946	[1] 230	222,844
1947	135	84,751
1948	79	59,488
Hours of service law cases		
1944	65	77,400
1945	49	23,100
1946	38	37,900
1947	8	6,700
1948	18	4,300
Safety Appliance Act cases:		
1944	284	65,600
1945	247	23,100
1946	157	58,000
1947	114	42,900
1948	180	65,000

	Complaints received	Indictments obtained	Convictions	Penalties assessed
Kickback Act				
1944	100	6	3	$4,100
1945	45	2		
1946	9			
Walsh-Healy Act.				
1944		4		
1945		1		1,500

	Cases referred to United States attorneys for prosecution	Penalties assessed
Signal Inspection Act		
1946	2	$200
1947	2	200
1948	7	400

	Cases received	Penalties assessed
Accidents report law, 1948	1	$100
Merchant seaman statute, 1948	1	

[1] Approximate

STATEMENT BY THE ATTORNEY GENERAL CONCERNING PROPOSED FEDERAL ANTILYNCHING ACT (H. R. 4683)

I appreciate the opportunity to express my views regarding H. R. 4683, a bill to provide protection of persons from lynching, and for other purposes.

In my judgment the Federal Government today has the obligation to protect its citizens, and in fact all inhabitants of the Nation, from the forcible deprivation by mob action of the right to a fair trial. It has that obligation, also, in my view,

as to mob action directed against individuals by reason of their race, color, religion, or national origin. The Department of Justice has long endeavored to enforce these rights to the fullest extent possible under the provisions of existing law. But serious limitations have been imposed. In my opinion the time has come for strengthening the existing law so as to deal adequately with the entire problem of lynching.

Under the existing general statutes, notably 18 U. S. C. 241 and 242, and the general conspiracy provision, 18 U. S C. 371, the basis exists, and the Department has used it successfully, though under certain major handicaps, to prosecute State officers and private individuals who conspire with the State officers to substitute mob violence for the lawful adjudication and punishment of crime in accordance with due process of law. (The handicaps referred to are discussed at some length in my statement concerning the proposed Civil Rights Act of 1949 (H. R. 4682).) The sections of law to which I have referred (18 U. S. C. 241–242; 18 U. S C 371) enable us to deal with part of the so-called lynching problem, and, if the general statutes are improved in the ways already suggested, our hand would be strengthened in that regard. However, this by no means meets the whole problem. It is essential that a lynching bill put the Government in a position to prosecute the members of a lynch mob, particularly where there is no element of conspiracy with local officers. These undoubtedly comprise the bulk of the present-day cases where the threat of lynching exists. In addition, it is essential that the Government should not be limited to those cases where persons are taken from law enforcement officers with or without the consent of such officers There have been far too many instances in the past of lynching or the threat of lynching in the case of persons neither charged with nor suspected of crime, but who, for economic or political reasons, have been the subject of lawless mob action because of their race, color, religion, or national origin. Such a situation is intolerable in our society. The Government must be in a position to deal with all of these situations

Accordingly, I should like to voice my support of H. R. 4683 as an antilynching measure which meets the needs of the law-enforcement agencies. Consideration of the kind of bill which is to be enacted becomes particularly significant, because there are bills pending in the Congress which, though entitled antilynching measures, fall far short of the situation which must be remedied.

I would like, therefore, to summarize briefly for you the provisions of H. R. 4683 so that there is clear understanding upon what I and my Department think is essential for a Federal antilynching bill.

Section 1 gives the short title

Section 2 contains legislative findings. I would regard these findings to be particularly useful in relation to our endeavors in world affairs. Certain it is, too, that here at home we must meet the challenge of communism in the ideological field where we are best equipped; namely, in the securing of individual rights to life and liberty.

Section 3 declares the right to be free from lynching to be a federally protected right.

Section 4: As defined in this section, a lynching may be committed by an assemblage of two or more persons who are referred to as a lynch mob. Two general type of lynch mob violence form the basic offense; (*a*) That committed or attempted because of the race, color, religion, or national origin of the intended victim, or (*b*) that committed or attempted by way of correction or punishment of the intended victim, who is either in the custody of a peace officer, or who is suspected of or charged with or convicted of the commission of a criminal offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of the victim or of imposing a punishment not authorized by law By these indicia, it is intended to distinguish lynching from ordinary violence.

Section 5 provides punishment for two classes of persons: (1) Any member of a lynch mob, and (2) any person whether or not a member of a lynch mob who instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever. The penalties are graded, so that the serious offenses resulting in death or maiming or severe property damage (as defined) may result in imprisonment up to 20 years or a fine of $10,000, or both. All other offenses may be punished by imprisonment of not more than 1 year or a fine of not more than $1,000, or both. The distinction in punishment allows for the technical differences in prosecuting felonies and misdemeanors under Federal law. Thus, a misdemeanor, an offense punishable by imprisonment not exceeding 1 year (18 U. S. C. 1), may be prosecuted by information rather than by indictment (*Catlette* v *United States*, 132 F. (2d) 902).

Section 6 provides punishment for peace officers who neglect, refuse, or willfully fail to make diligent efforts to prevent lynching or to protect persons from lynch mobs or who willfully fail to make diligent efforts to apprehend or keep in custody members of a lynch mob. Subsection (a) is directed against State and municipal peace officers. Subsection (b) is directed against Federal peace officers in places where the United States exercises exclusive criminal jurisdiction.

Section 7 defines peace officer.

Section 8: Under this section, the kidnaping law is amended so as to make punishable the transporting, in interstate or foreign commerce, of persons unlawfully abducted or held because of race, color, religion, or national origin or for purposes of punishment, correction, or intimidation.

Section 9 is a separability clause.

The crime of lynching is a blot on our national life. The facts concerning it are on record before your committee. It is condemned by right-thinking people in every section of our country.

I am not unmindful, of course, that serious questions of constitutionality will be urged with regard to some of the provisions of the bill. But I am thoroughly satisfied that the bill, as drawn, is constitutional. It is true that there is a line of decisions holding that the fourteenth amendment relates to and is a limitation or prohibition upon State action and not upon acts of private individuals (*Civil Rights Cases*, 109 U. S. 3; *United States* v. *Harris*, 106 U. S. 629; *United States* v. *Hodges*, 203 U. S. 1). These decisions have created doubt as to the validity of a provision making persons as individuals punishable for the crime of lynching. However, without entering here upon a discussion of whether or not these decisions are controlling or possess present-day validity in this connection, it may be pointed out that such a provision punishing persons as individuals need not rest solely upon the fourteenth amendment. Upon proper congressional findings of the nature set forth in H. R 4683, the constitutional basis for this bill would include the power to protect all rights flowing from the Constitution and laws of the United States, the law of nations, the treaty powers under the United Nations Charter, the power to conduct foreign relations, and the power to secure to the States a republican form of government, as well as the fourteenth amendment.

I urge that the Congress exercise its full powers to give a governmental guaranty to the foremost freedom, the freedom to live. That exercise of power will, in my opinion, be upheld by the judiciary.

Mr. CELLER. In the text of that report are outlined the immunitiies and rights that I have mentioned. They are not exclusive.

Section 204, on page 14 of the bill, amends title 18, United States Code, section 1583. This amendment makes clear that the holding, as well as selling, into involuntary servitude or slavery is punishable. The insertion of "other means of transportation" is simply to bring the statute up to date, supplementing the now present word "vessel."

Beginning on page 14, H. R. 627 amends existing protections of the right to vote. Section 211 makes it clear that section 596 of title 18, United States Code, is intended to apply to general, special, or primary elections. The existing language is "any election." Section 211 would amend this to read "any general, special, or primary election." Section 212 makes a number of changes in phraseology in the present section 1971 of title 42, United States Code, to close certain loopholes now open for construction. The phrase "general, special, or primary election" supplants the words "any election by the people." The present statute speaks only of distinction of race, color, or previous condition of servitude. The words "previous condition of servitude" have been dropped as unnecessary, since the slaveholding days are far removed. In their place have been substituted the words "religion or national origin."

It is clear that the existing guaranty against distinctions in voting based on race or color is expressly authorized by the 15th amendment (*U. S.* v. *Reese*, 92 U. S. 214 (1874); *Smith* v. *Allwright*, 321 U. S. 649, decided in 1944), and is applicable to all elections, whether Fed-

eral, State, or local (*Chapman* v. *King*, 154 F. 2d 460, decided in 1946). In addition, the present statute has been sustained under the equal-protection clause of the 14th amendment (see *Nixon* v. *Herndon*, 273 U. S. 536, decided in 1927; *Nixon* v. *Condon*, 286 U. S. 73, decided in 1932), which clause also is the source for the claim that distinctions in voting based on religion or national origin are arbitrary and unreasonable classifications, both as they appear in State laws or in the administration of such laws. Thus, H. R. 627 provides an up-to-date legislative clarification of the federally secured right to vote and specifies civil as well as criminal sanctions for the effective enforcement of this coordinated legislation.

Since the Supreme Court decided the case of *Henderson* v. *U. S.* (339 U. S. 816), decided in 1950, regarding transportation, and *Brown* v. *The Board of Education* (347 U. S. 483), decided in 1953, concerning desegregation, any kind of racial and similar segregation and discrimination in interstate transportation appears doomed. It seems only a matter of time until, case by case, all such discrimination is condemned. The duty of Congress to immediately clarify the law and provide civil-rights protection is clear. This is so that the Nation does not have to wait piecemeal, case by case, for the benefits that might be derived from the Court's decision. That, in general, is the purport of the last part of my bill, H. R. 627.

H. R. 259 is a Federal antilynching law; at present, under title 18, United States Code, sections 241, 242, and 371, it is possible to prosecute law-enforcement officers and individuals who conspire with such officers to substitute mob violence for the lawful adjudication and punishment of crime in accordance with due process of law. However, in many cases there is no provable conspiracy with law-enforcement officers and private individuals, thus making it impossible to prosecute members of the lynch mob. It is the purpose of this bill to provide full Federal protection for this despicable crime—a crime which, by its very nature, indicates the breakdown of republican government as guaranteed by the Constitution of the United States. There is no doubt of the constitutionality of this antilynching law as applied to State officials or those who conspire with State officials. I see no constitutional impediment to its application to private individuals who take the law in their own hands and, in effect, to destroy government in a given part of the Nation. But I recognize that this latter is more debatable.

H. R. 628 makes clear that the attempt as well as the completed crime of subjecting another to peonage or involuntary servitude is to be punished.

In conclusion, it is clear that with the exception of certain aspects of the antilynching law, every provision I have offered raises absolutely no legitimate constitutional questions. Furthermore, I think it is clear that there is nothing revolutionary about the legislative program I suppose. It builds on existing civil-rights foundations, closes loopholes in existing laws, clarifies uncertainties in existing law, and provides adequate law-enforcement officials for the effective protection of recognized civil rights. In my estimation, Congress has been somewhat derelict in its duty, on the one hand, to keep civil-rights legislation abreast of the progress of our Nation and, on the other hand, to provide effective enforcement machinery for existing

civil-rights protections. I think the legislation I propose is a step in the right direction toward fulfillment of these duties and I respectfully urge its favorable consideration.

I want to call the committee's attention to the following facts:

The Attorney General of the Department of Justice was invited to come before this committee and present his views; the Attorney General has sent a communication in the form of a letter, giving his views on some of these bills, but he has declined to appear to be cross-examined. Now, the Attorney General's Office of the Department of Justice is the agent primarily responsible for the enforcement of law. I cannot understand why the Atttorney General would offer that declination. The Attorney General has stated that he cannot take action in many cases because the existing laws are too weak. Now, if the existing laws are too weak—and we are offering him an opportunity to comment on the proposals to strengthen these laws—it is difficult to comprehend why he would not appear and indicate his views as to what laws are necessary to effectively enforce presently recognized civil rights.

The Interstate Commerce Commission was also invited to appear and that Commission has declined to appear.

The Department of Defense was also invited to appear. The Department of Defense declines to appear.

The Department of Health, Education, and Welfare was invited to appear and that Department declined to appear.

The Department of Labor was invited. As yet there has been no response to the invitation from the Department of Labor.

The General Services Administration was invited to express its views. Thus far there has been no response from the General Services Administration. There has been plenty of time for their response.

The Civil Service Commission was invited to appear. It has respectfully declined to appear.

The Housing and Home Finance Agency of the Government was invited to appear, and I understand that that Department will testify.

Now, any claim by these agencies that these 51 bills, now before you distinguished gentlemen, present an overwhelming and an impossible task is pure deception. Most of these bills are identical. There are at the most 13 different bills as far as substance is concerned, and no more than 10 different proposals. Furthermore, most of these proposals were referred to these agencies for their consideration last winter.

Now, I cannot for the life of me understand why these agencies, which are primarily concerned with legislation of this sort do not appear and testify. The Interstate Commerce Commission should testify with reference to transportation; the Department of Defense, with reference to actions of Defense officials concerning possible segregation. Health, Education, and Welfare—certainly that organization should have responded. The Department of Labor certainly should be present. The General Services Administration should be present, and by all means the Civil Service Commission should have offered to come. But still the only organization that has expressed a willingness to testify is one, a sort of semi-independent administrative agency, the Housing and Home Finance Agency.

Now, I do not like to inject a partisan spirit in these proceedings but apparently the administration wants to eat its cake and have it too. The agencies that I have mentioned in their declination to express themselves on these bills have shown a shocking disregard of their duties. Now, why did they decline? I do not understand, unless it may be they did not want to alienate certain sentiments in certain sections of the country. I am sure they dare not oppose the bills and they are thus timid about any kind of approval. I call that attitude pusillanimous and most unworthy.

I think also it is well to state that the White House has indicated that these issues should be considered on their merits. Well, how can we consider these issues on their merits when we do not get a verbal expression of the viewpoints of the various departments? The officials of these departments should appear before this distinguished group of members of the Judiciary Committee and be questioned so that the issues can be more clearly defined.

I am regretful that I was compelled to inject that last note, but when I received the news from the staff that we got no response with reference to their appearance, I was stunned and surprised.

Mr. MILLER. How many departments appeared and testified in the previous hearing?

Mr. CELLER. How many testified at the other hearing?

Mr. MILLER. How many of the departments testified in the hearings in the 81st Congress?

Mr. CELLER. As far as I know—and that will have to be checked, we have a letter from a number of the departments; I do not know which ones; I did not conduct the hearings.

Mr. MILLER. Did the Attorney General appear and express the views for that Department?

Mr. CELLER. Yes; Attorney General Clark appeared and testified.

Mr. MILLER. I do not see that——

Mr. CELLER. You mean in the last hearing?

Mr. MILLER. The hearing you referred to, that was made a part of the record, on page 80 of the hearings, and in the hearings before Subcommittee No. 3.

Mr. CELLER. I do not know whether other department and agency representatives also appeared.

Mr. MILLER. Of the 81st Congress.

Mr. CELLER. I do not know whether they were invited or not; I could not say. As I say, I did not conduct those hearings. If you say they have not—does anyone know if they were invited?

Mr. MILLER. I was not here.

Mr. CELLER. Of course, as I have been informed, these hearings were on antilynching bills, and it may be that the late lamented Mr. Byrne probably felt that they were not intimately involved with the antilynching, which is not the case here, because the bills cover a much broader field.

Thank you very much, Mr. Chairman.

Mr. LANE. Thank you very much.

Are there any questions by members of the committee?

If not, we thank you very much for your testimony.

Mr. CELLER. Thank you, Mr. Chairman.

STATEMENT OF HON. ADAM CLAYTON POWELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. LANE. The next witness we will have the pleasure of hearing from is another Member of Congress who has been very active on this subject matter, Congressman Adam Clayton Powell, a Representative from New York, who is the author of H. R. 389.

Congressman Powell, we will be very glad to have your testimony and any comments you wish to make for the benefit of the committee.

Mr. POWELL. Mr. Chairman and colleagues, I want to thank you for opening up these hearings in this vital field of civil-rights legislation. And while I do not represent my colleagues, I do want to put in the record that the following Members of Congress are working with me on this problem: Congressman Roosevelt, of California; Congressman Barrett, of Pennsylvania; Congressman Davis, of New York; Congressman O'Hara, of Illinois; Congressman Reuss, of Wisconsin; Congressman Chudoff, of Pennsylvania; Congressman Rodino, of New Jersey; and Congressman Diggs, of Michigan; and that we are expanding this group during the recess between the first and second sessions and we hope that by January of next year to have a very favorable group of men in the leadership on both sides of the aisle to back us up in pressing for civil-rights legislation. We are making specific plans around this idea.

I come to testify specifically on H. R. 389, which is a so-called omnibus civil-rights bill. It is a bill to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States, to insure at least that all persons shall have an equal chance to enjoy the fruits of our great democracy.

I will not take the time of the committee to go through my prepared statement because my bill parallels your chairman's bill, Mr. Celler's, except for one specific section which he did not include in his bill that I have included in my omnibus civil-rights bill, the establishment of a Fair Employment Practice Commission. I believe that a continuation of discrimination in employment in our Nation is a disgrace. In this period when employment is at an alltime high, the problem is one of making sure that the Nation uses all available skills. In a period of low employment, an FEPC will guarantee that unfair layoffs or demotions will not be a means of forcing minority groups into the lowest economic level of the country.

With your permission, Mr. Chairman, I would like to file as a part of my statement the rest of these remarks.

Mr. LANE. They will appear in the record.

Mr. POWELL. Thank you.

(The statement referred to follows:)

The bill that I have introduced contains safeguards against segregation in housing and in educational institutions that receive Federal funds or assistance. Prompt action by Congress on this phase of the bill would save thousands of dollars that must be spent by taxpayers in suits to prevent discrimination in these fields.

H. R. 389 provides for the establishment of a Civil Rights Division in the Department of Justice. It would also create an investigative staff under the direction of the Civil Rights Division.

In connection with 18 United States Code 241 (the present civil-rights conspiracy statute), H. R. 389 would provide for protecting "inhabitants" instead of the present "citizens," would extend the protection to cover substantive offenses

as well as conspiracies, and would provide for civil damages as well as criminal penalties. It would make the crime a felony where the victim is killed or maimed.

H. R. 389 enumerates the rights protected, including the right to be immune from exactions of fines or deprivations of property without due process of law, the right to be immune from punishment for crime except after a fair trial at which the person is represented by counsel, the right to be free from "third degree" methods, the right to be free from illegal restraint, the right to protection of person and property from discrimination, and the right to vote as protected by Federal law.

In amending title 18 United States Code, section 242 (the present civil rights "color of law" statute), H. R. 389 increases the penalty where the victim is killed or maimed, making the crime a felony. The bill enumerates rights to be protected. The bill lists as rights those enumerated under section 241 and, in addition, the right to be secure in any employment, to conduct business, commerce, or professional activity, to attend school, to utilize public accommodations, to secure, own and live in any residence and to engage in all lawful, social, commercial, educational, political, and entertaining activities free from racial discriminations.

The bill, in listing rights under sections 241 and 242, states that the enumerated rights are in addition to any other rights that may be protected under these sections.

H. R. 389 amends title 18, United States Code, section 1583, to provide that all "holding" of a person in involuntary servitude is punishable. It also makes an attempt to violate this section punishable as well as the completed act.

The bill amends title 18, United States Code, section 594, to cover coercion or intimidation at a primary election. The bill would extend to State and local elections where the coercion or intimidation is based on race.

H R. 389 strengthens title 8, United States Code, section 31, by providing that no one who is "eligible" to vote in any election shall be denied the right because of race. The present law protects those who are "qualified." The bill also provides that this right to vote can be enforced by an action brought by the Attorney-General.

The bill provides for the elimination of segregation and discrimination in interstate commerce and establishes criminal and civil sanctions against the persons and carriers guilty of such practices.

Mr. POWELL. I would like to say, however, Mr. Chairman, that I am deeply shocked at the revelation just presented to us by our colleague, Mr. Celler, in that all but one of the various Government agencies invited to testify today refused to come, declined, or did not answer.

This legislation before us now is a little bit different than the legislation that was proposed in the 81st Congress when only the Attorney General came and testified. That had to do with antilynching.

Mr. MILLER. That was the hearing held in the 81st Congress.

Mr. POWELL. Yes.

Mr. MILLER. H. R. 115, H. R. 155, H. R. 365, H. R. 385, and these other bills, were regarded as antilyinching bills?

Mr. POWELL. They were all antilynching bills?

Mr. MILLER. Every one of them?

Mr. POWELL. Yes. I was the first one, Senator Humphrey and myself, to introduce the omnibus bill. That was in the 81st Congress, and if you will just let me point to provisions in my bill, I can show you why each branch of the Government was invited to appear at these hearings.

The first is the Fair Employment Practice Commission. That would be under Department of Labor.

Second is housing provisions. I understand the Housing Agency will come.

The next is education, having to do with Federal funds, and that would be under Health, Education, and Welfare.

And the next is the protection of men in the Armed Forces; that would be the Department of Defense, and they have indicated to me that they were interested.

The next pertains to rights enumerated under section 241 of my bill, pertaining to the right to secure employment, and conduct business, commerce, and such activities and to utilize public accommodations which would be the Interstate Commerce Commission. This would secure the right to live and travel without discrimination.

Then another one having to do with the right to vote in local elections, which would come under the Attorney General.

Elimination of segregation and discrimination in travel, Interstate Commerce Commission.

Now, up until June 7 of this year executive departments and agencies showed interest. I have copies here of reports from the Department of Justice, signed by the Deputy Attorney General, William P. Rogers, and from the General Services Administration, signed by Edmund F. Mansure, the Administrator, and from the Interstate Commerce Commission, a very fine analysis of my bill, specifically signed by Richard F. Mitchell, Owen Clarke, and Howard G. Freas, the committee on legislation.

But I cannot understand this sudden dropping of the Jim Crow curtain between the legislative branch and the executive branch, especially in view of the fact that Mr. Eisenhower has stated specifically recently that he believed the amendment that I have offered on the floor of the House has been erroneous and extraneous and that these problems which I have raised in the shape of amendments, according to our Chief Executive, should be considered on their merits just as we are trying to do today.

It seems to me that this is a strange and almost pitiful paradox for the Chief Executive of the Government to say that we should do what we are doing and then for every member of the executive branch to decline, one way or the other to come before the committee and testify, except the Housing and Home Finance Agency.

I think the committee should go into this particular problem, possibly before considering legislation, right now to find out who dropped this Jim Crow curtain between the legislative and executive departments, and maybe we could find out, using the powers we have in the legislative branch, who is back of this. It is evidently not a haphazard occurrence. I am sure it is not something that just occurred by chance. When all the agencies of the Government act together somebody is directing it, and I think we should find out who it is.

I have been in the House 12 years and I have never seen an agency of the Government yet refuse to testify before a committee on legislation affecting that particular branch of the Government. It shows a cheap regard for the legislative branch of the Government. Maybe we have earned this cheap regard by reason of not having done anything in this field.

Also, speaking not as a Congressman but as a Negro, it is almost an insult to my people who are so vitally concerned with this that we have an executive branch of government that has done so much in this field up until this year and then this year, all of a sudden, inexplicable things begin to occur which are not consonant with prior

contributions made. I think this is a matter that should be looked into very definitely by the committee. Maybe the agencies cannot come before you and testify. Maybe on cross-examination certain things would be brought out showing that somewhere down the line the orders are not being followed that came from the top. We have excellent orders from our Chief Executive, but down the line if you get some of these heads before you and they are questioned, I am sure you will find out these orders are not being followed.

Mr. BURDICK. Will the gentleman yield?

Mr. POWELL. I shall be happy to.

Mr. BURDICK. What specific acts do you have in mind on which you base your opinion that within the last year there has been a change of policy?

Mr. POWELL. I have many.

Mr. BURDICK. Give us just a few.

Mr. POWELL. I will give you one. We have been proceeding along with integration in the Armed Forces with tremendous success. I have made a tour of the theaters in Europe and the Far East and have found integration very firm. But I found, and so reported to President Eisenhower, that the integration stops when it gets to the sergeants. I furnished reports from commanders showing there is tremendous integration among privates, corporals, and the first grade of sergeants, but after that it stops. I was able to get an order signed by a commander at Fort Bliss, Tex. It came to me by not too honest means but inasmuch as I did not ask for it my conscience is salved. Someone stole off the bulletin board at Fort Bliss, Tex., an order signed by the commander and mailed it to me anonymously last August in which the commander invited men desiring to serve in military detachments in Europe to come forward immediately; then in bold letters across the bottom "For Caucasians only."

I sent this direct to the Defense Department because I knew it was a violation of the order. After two letters, two phone calls, and a telegram, covering 4 months, I received an acknowledgment; that is all.

I then took the matter up with the White House and they put pressure on. That matter is still unresolved. A year has passed. You cannot order an integrated Armed Force and then allow a commander to post notices for whites only or for Negroes only or Mexicans or what not.

Another thing that was brought out last year is that at the Pentagon there is a definite freeze of Negro workers around grade 6. There is nothing new in this. There has been discussion back and forth between the Pentagon, the White House, and myself for a year or more.

At grade 6 there is a freeze. From then on the Negroes do not get promoted. I have talked to Mr. Nixon about it, and I have talked to the President about it.

Mr. BURDICK. There is no law preventing their getting higher positions?

Mr. POWELL. No. That is what we should question the Civil Service Commission about. Why is it at grade 6 they are left at the post while their white coworkers who started with them move into the higher grades? Maybe that is why the Civil Service Commission does not want to come here.

So I think, very frankly, that more important than the legislation which I came to testify about today is this statement of Mr. Celler's that these agencies have refused to come.

Mr. LANE. Congressman, I think we can tell you better tomorrow. We are setting the hearing tomorrow to hear them. If they show up, then we will have the answers.

Mr. POWELL. I would like to say finally that until we get some legislation in the field of civil rights out of committee—and it is not only the Judiciary Committee; my own committee, Education and Labor, has FEPC bills before it and cannot even hold hearings on them. Until we can get these bills out, the only thing left for those of us who believe in a united America to do is to continue to offer amendments on the floor, just as I intend to offer one to the Federal aid to education bill today, and just as I intend to offer one to the Federal Housing Act next week. That is the only recourse left to us. I would much rather see these matters come out of committee, but until they do I have no other course left for me to follow.

I appreciate this opportunity to come before you.

Mr. LANE. Would you care to have those letters you referred to made a part of the record?

Mr. POWELL. Yes.

(The letters referred to are as follows:)

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., May 31, 1955.

Re H. R. 389 and H. R. 702.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN CELLER: Further reference is made to your letters of February 24, which requested an expression of the views of GSA on H. R. 389, a bill to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States, and H. R. 702, a bill to protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin.

These two bills are very similar in their provisions which would eliminate the last vestiges of discrimination or segregation by reason of race, color, religion, or national origin, and would protect the civil rights of all persons within the United States. These bills make provision for the amendment and extension of Federal statutes heretofore passed seeking to prohibit discrimination and to uphold civil rights.

H. R. 702 would specifically make unlawful the requirement of a payment of a poll tax as a prerequisite for voting in a primary or other elections for national officers.

Both bills provide for nonsegregation in housing, education, and employment These bills also provide for the establishment of a commission for the administration of such law, as well as the appointment of an additional Assistant Attorney General, with adequate staff, for the purpose of preserving and enforcing civil rights.

Attention is invited to the fact that the President of the United States, on January 18, 1955, issued Executive Order 10590, for the purpose of establishing the President's Committee on Government Employment Policy. The President of the United States set up a committee for the purpose of carrying out the provisions of this Executive order, which reports directly to the President. Paragraph 2 of Executive Order 10590 "* * * excludes and prohibits discrimination against any employee or applicant for employment in the Federal Government because of race, color, religion, or national origin; and * * *."

This committee was established at Presidential level to have increased stature over the Fair Employment Board which has been abolished. It is believed that this action on the part of the administration will be very effective in achieving fair employment policies as sought by these bills.

On February 3, 1955, GSA further revised its nondiscrimination in employment clause, and notified the heads of all Federal agencies that all Government contracts must contain the following language:

"In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be limited to, the following: 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."

From the above it will be noted that GSA favors the objectives of legislation of this type. However, since it is believed that these results can also be achieved through administrative action, GSA has placed in effect nondiscrimination policies in the performance of its functions.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Cordially yours,

EDMUND F. MANSURE, *Administrator.*

JUNE 7, 1955.

Re Hon. A. C Powell's bill H. R. 1600.

Hon. OMAR BURLESON,
Chairman, Committee on House Administration,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This will refer to your letter to the Attorney General requesting our viewpoint on the poll-tax question and requesting also an opinion as to whether the abolition of State poll-tax requirements may be accomplished only by constitutional amendment.

There are presently five States which require the payment of poll taxes as a prerequisite to voting. These are Alabama, Arkansas, Mississippi, Texas, and Virginia. The Department of Justice is in favor of whatever Federal action may be within the constitutional jurisdiction of the Congress to effect the elimination of poll taxes.

As for the constitutional question which you pose, I regret to advise you that the Department cannot furnish the desired opinion Quite apart from the fact that there are sound legal arguments which may be made on both sides of this controversial issue, the Department has for many years taken the position that the statutes which set forth the powers of the Attorney General in the matter of giving opinions do not authorize, empower, or require the Attorney General to give opinions to committees of Congress on the constitutionality of either pending or enacted legislation. This position seems as sound now as when it was first stated, constitutional questions being best left to the judiciary for decision.

I am confident you will agree that the Attorney General should not depart from the long-established policy in this instance.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

INTERSTATE COMMERCE COMMISSION,
Washington 25, June 8, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CHAIRMAN CELLER: Your letter of February 25, 1955, requesting an expression of the Commission's views on a bill, H. R. 389, introduced by Congressman Powell, to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States, has been referred to our Committee on Legislation. After careful consideration by that committee, I am authorized to submit the following comments in its behalf

As stated in its title, the purpose of H. R. 389 is to provide means of further securing and protecting civil rights. The bill is divided into two major divisions, title I and title II, each of which, in turn, is subdivided into parts. Title I contains provisions designed to strengthen the Federal Government machinery for the protection of civil rights by providing in part 1 thereof for the establishment

of a Commission on Civil Rights in the executive branch of the Government, and in part 2 for the establishment of a Civil Rights Division in the Department of Justice. Title II, of the bill, which is divided into seven parts, contains provisions which are intended to strengthen the protection of an individual's rights to liberty, security, and citizenship and its privileges, and to that end part 1 thereof would amend and supplement the existing civil-rights statutes. Part 2 would amend and supplement the existing Federal statutes relating to intimidation of others and the right to vote, part 3 would prohibit discrimination or segregation in interstate transportation, part 4 would afford protection against lynching, part 5 would prohibit discrimination in employment, part 6 would prohibit discrimination and segregation in housing, and part 7 would prohibit discrimination in education.

Many of the provisions of H. R. 389 do not pertain to the jurisdiction or functions of this Commission, but relate to matters upon which we are not qualified to express a helpful opinion based on our experience in the regulation of transportation. Our comments, therefore, shall be confined to those provisions which relate to transportation or are otherwise applicable to the Commission.

Under the provisions of section 103 (a) of the bill, the Commission on Civil Rights, which would be created under the provisions of section 101, would be authorized to utilize to the fullest extent possible, the services, facilities, and information of other Government agencies, and the agencies would be directed to cooperate fully with the new Commission in this connection. While we have no objection to such a provision, we wish to point out, as we have previously done with respect to similar provisions in other proposed legislation, such as that proposing the establishment of a Commission on Area Problems of the Greater Washington Area, that this Commission would not be in a position with its present staff and without additional funds, to furnish an unlimited amount of information, or to place its facilities and services at the unlimited disposal of the new Commission.

Section 221 (a), part 3, title II, provides that all travelers "shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith * * * without discrimination or segregation based on race, color, religion, national origin, or ancestry." Subsection (b) of section 221 would make it a misdemeanor for anyone, whether acting in a private, public, or official capacity, to deny or attempt to deny any traveler such accommodations, advantages, or privileges for any such reason, or to incite or participate in such denial or attempt, and provides penalties therefor and other relief. Section 222 would similarly make it a misdemeanor for any such common carrier, or any of its officers, agents, or employees to segregate or attempt to segregate or otherwise discriminate against passengers using any of its public conveyances or facilities on account of race, color, religion, national origin or ancestry, and would likewise provide penalties and other relief for violations.

Under section 3 (1) of the Interstate Commerce Act, it is now unlawful "for any common carrier * * * to make, give, or cause any undue or unreasonable preference or advantage to any particular person * * * or to subject any particular person * * * to any undue or unreasonable prejudice or disadvantages in any respect whatsoever." This provision relates principally to rail carriers. There are similar provisions in other parts of the act applicable to motor and water carriers and freight forwarders.

Soon after the Interstate Commerce Commission was established in 1887, it was called upon to decide whether the provision above quoted prohibited the railroads in certain sections of the country from requiring that Negro and white passengers occupy separate coaches and other facilities, as they were compelled to do by such statutes in a number of States. In all such cases, which have become increasingly numerous and complicated in recent years, the Commission has limited its inquiry to the question whether equal accommodations and facilities are provided for members of the two races, adhering to the view that the Interstate Commerce Act neither requires nor prohibits segregation of the races.

In *Plessy* v. *Ferguson* (163 U. S. 537 (1896)), the Supreme Court of the United States held that a Louisiana statute requiring railroads carrying passengers in their coaches in that State to provide equal, but separate accommodations for white and colored races in the form of separate or divided coaches was not in conflict with the provisions of either the 13th or the 14th

amendment to the Constitution of the United States. The Court concluded (pp. 550–551):

"* * * we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the 14th amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of State legislatures."

Earlier in that decision the Court had stated (p. 544):

"* * * Laws permitting, and even requiring their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally if not universally, recognized as within the competency of the State legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored races have been longest and most earnestly enforced."

In the recent decision of *Brown* v. *Board of Education* (347 U. S. 343 (1954)) and the related cases decided in the consolidated opinion of May 17, 1954, the Supreme Court quoted with approval the language of the Kansas district court as follows:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. This impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. * * *"

The Court went on to say:

"Whatever may have been the extent of psychological knowledge at the time of *Plessy* v. *Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy* v. *Ferguson* contrary to this finding is rejected.

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

In docket No. 31423, *National Association for the Advancement of Colored People et al.* v. *St. Louis-San Francisco Railway Company et al.*, which is now pending before the Commission, we are asked to rule whether the provision of separate but equal transportation facilities violates section 3 of the Interstate Commerce Act or the Constitution, and in docket No. MC–C–1564, *Sarah Keys* v. *Carolina Coach Co.*, which is also pending before the Commission, we are asked to rule whether such provision violates section 216 (d) of the act.

In view of the pendency of the above-mentioned proceedings, we believe it would be inappropriate for us to express any opinion in regard to the provisions of sections 221 and 222 of the bill.

Section 236 of part 4 of title II of the bill would extend the provisions of the Federal kidnaping laws to include knowingly transporting, or causing to be transported, in interstate or foreign commerce any person unlawfully abducted and held because of his race, color, religion, national origin, or ancestry, or for purposes of punishment, correction, or intimidation. The inclusion of the word "knowingly" in this proposed provision appears to be sufficient to relieve interstate carriers of liability thereunder unless they knew they were committing an offense.

Section 241 of part 5 of title II would amend title 29 of the United States Code by adding thereto, as chapter 9, provisions prohibiting discrimination in employment. This proposed new chapter would be known as the "Federal Fair Employment Practice Act." Attention is called in this connection to the fact that title 29 of the code already contains a chapter 9, entitled "Portal-to-Portal Pay." It is therefore suggested that the figure "9" in line 8, page 22 of the bill, be changed to "10."

Section 5 of the proposed new chapter would make it an unlawful employment practice for any employer as defined in section 3 (c) thereof, including any agency or instrumentality of the United States, to refuse to hire, to discharge, or otherwise discriminate against any individual respecting the terms, conditions, or privileges of his employment because of his race, color, religion or national origin, or to utilize in the hiring or recruitment of individuals for employment any employment agency, placement servce, training school or center, labor organization, or any other source which so discriminates against individuals. It would also be made unlawful under this provision for any such

employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or to make any inquiry in respect of prospective employment which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, or national origin, or to attempt to make any such limitation, specification, or discrimination, unless based on a bona fide occupational qualification.

Subsection (d) of proposed section 5 would make it an unlawful employment practice for any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any person because of his opposition to any unlawful employment practice or because of his filing a charge, testifying, participating, or assisting in any proceeding under the proposed new chapter.

We wish to state in this connection that it is the policy of this Commission to appoint the most qualified persons available to fill all vacancies regardless of race, color, creed, or ancestry, and promotions are made on the same basis. The Commission would not consider separating an employee from the service for any reason except for such cause as would promote the efficiency of the service, or in an orderly reduction in force where retention rights are determined by length of service, permanent status, veteran's preference, or other legitimate factors.

Under the provisions of section 5 (e) it would be an unlawful employment practice for any person to aid, abet, incite, compel, or coerce the doing of acts forbidden in the proposed amendments.

Section 5 of the proposed new chapter would create in the executive branch of the Government a new commission, to be known as the Fair Employment Practice Commission, composed of five members to be appointed by the President with the advice and consent of the Senate. Although the bill provides that the President shall designate one of its members to serve as Vice Chairman, it does not specify the manner in which the Chairman shall be designated or selected.

The principal office of the new Commission would be located in the District of Columbia, but the commission would be authorized to meet or exercise any or all of its powers at any other place. It would also have the power to establish such regional offices as it may deem necessary. In addition, the Commission or any one or more of its members or agents would have authority to conduct such investigations, proceedings, or hearings as would be necessary in the performance of its functions anywhere in the United States, except that any such agent, other than a member of the Commission, would be required to be a resident of the judicial circuit in which the alleged unlawful employment practice occurred.

Sections 7, 8, and 9 of part 5 describe in full the powers and duties of the new Commission, the rights of the parties, and the procedures to be followed upon the filing of a sworn or written charge alleging unlawful employment practices. Provision is also made therein for judicial review of the Commission's orders, including enforcement thereof and other relief, and the procedure to be followed by the courts in such cases. Section 10 (c) provides, however, that the provisions of section 8 respecting judicial review of the Commission's orders shall not apply to an order of the Commission directed to any agency or instrumentality of the United States or any Territory or possession thereof, or of the District of Columbia, or any officer or employee thereof. It provides, instead, that the Commission may request the President to take such action as he may deem appropriate to obtain compliance with such order.

Proposed section 10 (a) would confer upon the President authority (1) to take such action as may be necessary to conform fair employment practices within the Federal establishment with the policies set out in the proposed new chapter, and (2) to provide that any Federal employee aggrieved by any employment practice of his employer must exhaust the administrative remedies prescribed by Executive order or regulations governing fair employment practices within the Federal establishment prior to seeking relief under the provisions of the proposed new chapter.

The civilian employment practices of this Commission and other Federal departments and agencies are now governed in this respect by the provisions of Executive Order No. 10590, dated January 18, 1955 (which established the President's Committee on Government Employment Policy), and regulations issued pursuant thereto. Prior to that time the departments and agencies were governed by the provisions of Executive Order No. 9980, dated July 26, 1948 (which provided for the establishment of the former Fair Employment Board in the Civil Service Commission), and the regulations issued thereunder. Whether or not the provisions of part 5 of the bill should be made applicable to

the Federal departments and agencies, in addition to the Executive order now in force, is a matter of broad congressional policy on which we take no position.

Subsection (b) of proposed section 10 would authorize the new commission to act against any State or local government or any agency, officer, or employee thereof who commits an unfair labor practice as described in the proposed new chapter, but subject to the provision that the aggrieved employee must first exhaust the administrative remedies prescribed by the State or local government involved before seeking relief under the proposed new chapter. We find it difficult to reconcile this provision with section 3 (c) of part 5 which, in defining the term "employer," specifically excludes States and municipalities, and their political subdivisions. It is also noted in this connection that section 7 (a) provides, among other things, that the new commission shall have the power to prevent any "person" from engaging in any unlawful employment practice. The term "person," however, as defined in section 3 (a) does not include State or local governments, or agencies, officers, or employees thereof.

Section 11 would require the posting of notices by employers and labor organizations setting forth excerpts from the proposed new chapter and other relevant information, and provides a penalty of not more than $500 for willful violations. Section 12 provides that nothing in the proposed new chapter shall be construed as repealing or modifying any Federal, State, Territorial, or local law creating special rights or preference for veterans, and section 13 would grant the new commission authority to issue, amend, or rescind suitable regulations for carrying out the provisions of the new chapter. Under the provisions of section 14 anyone forcibly resisting, opposing, impeding, intimidating, or interfering with a member, agent or employee of the commission in the performance of his duties, or because of such performance, would be subject to a fine of not more than $500 or imprisonment for 1 year, or both. Section 15 contains a saving clause providing that in the event any provision of the proposed new chapter, or the application thereof, should be held to be invalid, the remaining provisions thereof shall not be affected by such holding.

Section 242 of the bill, which is also included in the provisions of part 5, proposes to amend section 34, title 41, of the United States Code, by adding thereto a new "subdivision (f)" providing that all persons employed by the contractor in the manufacture or furnishing of materials, supplies, articles, or equipment used in the performance of any contract will be employed without regard to discrimination because of race, color, religion, or national origin, and that no person shall be denied employment or, if employed, subjected to discriminatory practices for any such reason. We wish to point out in this connection that section 34 of title 41 was omitted from the 1952 edition of the code as having been fully executed. It appears, however, that this proposed amendment was intended as an addition to section 35 of title 41, which relates to contracts for the manufacture or furnishing of materials, supplies, etc., to Government departments and agencies. It is therefore suggested that the figure "34" appearing in line 18, page 43 of the bill, be changed to "35." This proposed provision also involves a matter of broad congressional policy on which we take no position.

The other provisions of H. R. 389 do not pertain to the jurisdiction or functions of this Commission and for that reason we are not in a position, as hereinbefore stated, to offer any helpful suggestions or comments with respect thereto.

Respectfully submitted.

RICHARD F. MITCHELL,
Chairman, Committee on Legislation.
OWEN CLARKE.
HOWARD FREAS.

Mr. LANE. Any questions?

Mr. MILLER. Inasmuch as you brought up the question of whether or not these agencies were requested to appear in the 81st Congress, during that Congress there was introduced and hearings were held on H. R. 4682, which was not an antilynching bill.

Mr. POWELL. It was a Department of Justice bill just the same.

Mr. MILLER. It was a complete civil-rights bill, however, and that was one of the bills upon which hearings were held in the 81st Congress, and there is no indication in the record of any of the departments at that time appearing. For what reason, I do not know.

Mr. POWELL. There is no excuse for it then or now.

Mr. MILLER. I would further like to state that I would hesitate to think you could seriously contend, on the basis of the instance you cited, that there has been a "Jim Crow" curtain dropped between the legislative and executive departments. As we know on Capitol Hill, we cannot always control the members of our staff, and you cannot charge the President with having changed his policy——

Mr. POWELL. I am not charging the President.

Mr. MILLER. Or the administration because a commanding officer at one camp in the country violated an order. The President very recently appointed a member of your race to the White House staff.

Mr. POWELL. Yes, Eddie Murrow, a good friend of mine. He will be a fine addition to the staff. I am making no charge against President Eisenhower. He is a man of tremendous human instincts. But I have the feeling that someone somewhere is pulling the rug out from underneath a great man. I have other facts to substantiate this. Perhaps other witnesses will come forward and bring out more facts, such as Mr. Mitchell of the NAACP, but some of the instances were reported to me in confidence.

Mr. LANE. Any further questions?

Thank you very much for appearing before us this morning.

Mr. POWELL. Thank you.

Mr. LANE. The next witness is Congressman Earl Chudoff of Pennsylvania. Is he here?

Mr. BRODEN. Mr. Chudoff called and said he was in an important subcommittee meeting and it was impossible for him to be here.

Mr. LANE. The next witness is Congressman Isidore Dollinger of New York.

(No response.)

Mr. LANE. The next witness is Congressman Barratt O'Hara of Illinois.

Miss MARIE CROWE. Mr. O'Hara is in an executive session of the Banking and Currency Committee and he asked me to say he would not be here because his committee is still in session and he cannot get away.

Mr. LANE. The next witness is Congressman Irwin D. Davidson of New York.

Mr. BRODEN. Mr. Davidson called and said he is testifying in a Senate hearing and will come as soon as he concludes his testimony there.

Mr. LANE. The next witness is Congressman Charles C. Diggs, Jr., of Michigan.

(No response.)

Mr. LANE. The next witness is Congressman Henry S. Reuss of Wisconsin.

Mr. BRODEN. Mr. Reuss called and said he would be unable to appear but he will submit a written statement for the record.

Mr. LANE. The next witness is Congressman James Roosevelt of the State of California and I see the Congressman is here, prompt as he always is. We are pleased to have him here as a witness on his bills, H. R. 3472, H. R. 3474, H. R. 3475, H. R. 3476, H. R. 3478, H. R. 3480, and H. R. 3481.

Thank you for coming here, Congressman. We appreciate having you here for your valued assistance on these bills before the committee for consideration.

STATEMENT OF HON. JAMES ROOSEVELT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. ROOSEVELT. Thank you very much, Mr. Chairman and members of the committee.

The privilege of appearing before this committee in support of these measures is very much appreciated. I would not take your valuable time, knowing of your crowded schedule, if this legislation did not mean so much to me personally and the splendid American citizens I have the proud honor to represent.

In the course of his opposition to the elimination of segregation in the National Guard, the President proposed that this and other civil rights measures should be considered by Congress on their own merits.

Following this, the President met with Republican congressional leaders and submitted a list of legislation that he felt Congress should take action on prior to adjournment. Notable by its absence from this list was any reference to civil rights legislation.

Evidently in the President's estimation the battle for equality for all American citizens has a lower priority than the building of an atomic ship, which was included in his "must" legislation.

In his request for funds to build such a ship, the President stressed the impression that could be made by sending it around the world to demonstrate the material advances that could be made by peaceful use of the atom.

But the world is not looking to the United States for leadership in material advances. It knows that we have the scientific knowledge, the technological knowledge, and the business knowledge to put us in the forefront of material progress. What the world is looking for is some indication that we are able to supply the moral and spiritual leadership for free men everywhere.

It has been said time and time again, and truly, that the present world struggle is a struggle for the minds of men. This will not be won by atomic ships or by huge military reserves, but by an adherence to a philosophy of life that recognizes the inherent dignity of each individual, without regard to such superficial factors as race or color. Passage of legislation by the Congress of the United States that would really guarantee to each citizen the equality promised by the Constitution would do more to win the world battle of ideas than all the military or atomic legislation it has already passed.

The President has failed, I believe, to supply the leadership in this area, which is so vital to our conduct of international relations. And that does not subtract in any way from the individual cases where, as Mr. Powell has stated to the committee, he has shown his true interest. It is incumbent on Congress, therefore, acting on its own initiative, to enact some significant civil rights legislation that will demonstrate to the world our dedication to the principle of equal treatment of all persons.

Civil rights statutes now on the books date back to the post-Civil War period. No civil rights legislation of major importance has passed Congress since that time. Even that which was passed in this faraway period has been emasculated by congressional repeal or judicial interpretation. At the present time our law-enforcement agencies are operating under inadequate, antiquated laws, ill fitted to present-day conditions. It is a little wonder, therefore, that a civil rights conviction is an occasion of surprise and delight in the Department of Justice.

In the well-known Screws case, decided by the Supreme Court in 1945, the Court interpreted the word "willful" in 18 U. S. C. 242 in such a manner as to make a conviction nearly impossible. Under this interpretation, a law officer who takes a life without cause, beats, assaults, or otherwise mistreats a person in his custody is not guilty of a Federal offense unless he had the specific intention to deprive the victim of his constitutional rights. This requirement in most cases so confuses a jury that it is reluctant to convict. If the protected rights were specifically enumerated in the statute, this obstruction to justice would be removed.

To do this and to bring these statutes up to date to fully protect our citizens from brutality by law officers, disenfranchisement based on race, the third degree method, unlawful invasions of their personal and property rights, enforced labor and other deprivations of their constitutional rights, I have introduced H. R. 3474, 3476, 3481, and 3472.

To assure that these laws will be properly enforced, and that continuing study will be made of the need for further action in the field of civil rights, I have introduced legislation to expand and raise in status the Civil Rights Section of the Department of Justice, to establish a Commission on Civil Rights in the executive branch of Government and a Joint Congressional Committee on Civil Rights. H. R. 3475 and H. R. 3478 would accomplish these objectives.

To protect our citizens from mob violence I have sponsored H. R. 3480, the antilynching bill.

To those who would say that this legislation is unnecessary, I would point out the bomb killing of Mr. and Mrs. Harry Moore in Mims, Fla., and the shotgun murder recently of Rev. George Lee in Belzoni, Miss.

Mr. Moore was one of the leaders of the NAACP in Florida. Because of his effective leadership and the results he was obtaining, he became a marked man. His elimination was decided upon by anti-civil rights forces. One evening his home was blown up and he and his wife were killed.

The State was unable or unwilling to take action. Because of the limited jurisdiction of Federal law, the FBI was powerless to intervene. The perpetrators of this heinous crime are still free to select their next victim.

In at least one State all sorts of pressures are being directed toward colored citizens to prevent their registering to vote or to force them to withdraw their names from the voting lists. Employees are fired; homeowners are having mortgages foreclosed; farmers are denied credit; professional men have their clients intimidated into going elsewhere for services. And most importantly, threats of violence and

acts of violence are directed against those who refuse to give up their constitutional rights. Reverend Lee was one of these. He was one of the first colored voters in his county to register and he urged other colored citizens to do likewise. For this he was threatened, and for defying the threats, he was killed.

The local authorities attempted to classify his death an accident. When irrefutable evidence made this whitewash impossible, they instituted a half-hearted attempt to investigate. Nothing has come of this investigation.

The FBI was able to intervene in this case because it involved voting rights. But even should it uncover the criminals, conviction is doubtful because of the inadequacies of existing civil-rights laws already mentioned.

Mr. Hodding Carter, Mississippi editor, recently warned of the possible return of the hooded mob in the fight against integration. His warning was well timed. In July of this year a mob of masked men broke up an interracial religious meeting at Southern Union College in Alabama. The mob threatened that unless those people were off the campus in 30 minutes, they would blow up the institution. Past history emphasizes that such threats are not idle talk. Unless legislation directed against such mob violence is passed, this occurrence will be repeated many times. Gentlemen, with the President of the United States going to the summit conference, this is the kind of thing which in my opinion makes his job not only hard but takes away much of the force of our leadership throughout the world.

The forces of reaction, blind prejudice and violence are unfortunately most vocal. It is not the time to outtalk them; in fact, this is unnecessary. The only answer we can give is to act, in accordance with the principles of American democracy, to guarantee as far as is humanly possible, the rights of each individual under our flag.

For this reason, I have sponsored and ask Congress to pass the legislation I have outlined.

I would like to draw particular attention to H. R. 3475, to establish a Commission on Civil Rights in the executive branch of the Government. I am sure that the members of this committee know that there is today, under the President's leadership, a more or less informal but I think fairly effective committee—it so happens that my younger brother is a member of that committee—which is trying to do the job, but the committee is not backed up by the sanction of the Congress and not directed by the Congress, and it seems to me it would be more effective in its service if it could have the sanction of congressional action.

I appreciate the privilege of being here and presenting these views.

Mr. LANE. Thank you. Any questions?

Mr. FORRESTER. I would like to ask the Congressman a question or two.

Mr. LANE. Congressman Forrester.

Mr. FORRESTER. I would like to ask the gentleman to elaborate on what he said in his discussion regarding the removal of the word "willful" from a criminal statute. Did I understand correctly that the gentleman would remove the word "willful" from a criminal statute?

Mr. ROOSEVELT. As I understand the interpretation given by the Court in the Screws case, it must be shown that the act of assault or battery that was committed must also have added to it the willful desire to deprive a man of his constitutional rights. In other words, the act itself was not enough. To that there has to be added the willful desire to deprive somebody of his constitutional rights. Taking the ordinary law-enforcement officer, acting in the kind of case referred to here, it would be impossible to prove he had a willful desire to deprive the victim of his constitutional rights because such officers and, for that matter, few persons know all the constitutional rights.

Mr. FORRESTER. Is the gentleman a lawyer?

Mr. ROOSEVELT. Unfortunately not. I went to law school but I am not a lawyer.

Mr. FORRESTER. I think it is unfortunate, too. Did the gentleman know that willfulness is an indispensable ingredient to a criminal offense?

Mr. ROOSEVELT. But should it not be to the act of brutality?

Mr. FORRESTER. Is not an assault punishable under the crime of assault and battery?

Mr. ROOSEVELT. Under the State law, but it does not permit the Federal authority to be exercised.

Mr. FORRESTER. Would the the gentleman like the Federal Government to prosecute assault and battery cases?

Mr. ROOSEVELT. Where the act was done under the kind of prejudice referred to here, I think so, and I think it could be reworded to say it was willfully done without the technical words that he was being deprived of this constitutional rights; if it could be simply that it was done primarily because the color of the victim's skin was different.

Mr. FORRESTER. Is not the gentleman saying a man could be prosecuted twice for the same offense?

Mr. ROOSEVELT. No.

Mr. FORRESTER. The gentleman knows assault and battery is punishable under the law of every State?

Mr. ROOSEVELT. Yes, but I also know that where the law is not enforced the only way to prosecute these people is to have a Federal statute.

Mr. FORRESTER. Do I understand the gentleman to say that the States will not enforce their laws on assault and battery?

Mr. ROOSEVELT. I think there is a fairly long list of cases where there has been no action whatsoever on the State level.

Mr. FORRESTER. Would not the gentleman operate on the idea that perhaps sometimes the accused can prove he is not guilty?

Mr. ROOSEVELT. I certainly would not deny that, but what I am referring to is a different situation from not finding him guilty.

Mr. FORRESTER. Do you think he should be brought to trial where the prosecuting authorities are convinced he is not guilty or where the prosecutor cannot prove guilt beyond a reasonable doubt?

Mr. ROOSEVELT. No, but I think the determination is sometimes not based on whether he is guilty or not.

Mr. FORRESTER. The gentleman will appreciate the only way the Federal Government could take cognizance of any offense would be where it is a violation of a Federal law?

Mr. ROOSEVELT. That is correct.

Mr. FORRESTER. Surely the gentleman knows that the Federal Government cannot interfere with ordinary cases that are State cases unless there is some constitutional offense involved. Would that not be the very ground of a prosecution of that kind?

Mr. ROOSEVELT. Yes, sir. I think we go back to the constitutional provision that each person shall be treated according to his constitutional rights.

Mr. FORRESTER. And the gentleman would be willing to strike that word "willful" from the statute?

Mr. ROOSEVELT. I did not say strike it, but reword it.

Mr. FORRESTER. To do that you would have to strike it, would you not?

Mr. ROOSEVELT. No; I think you could reword it. Not being a lawyer I am not prepared to suggest the rewording.

Mr. FORRESTER. But you would change its meaning.

Mr. ROOSEVELT. As construed in the Screws case, yes.

Mr. FORRESTER. You would deprive the defendant of the defense that he did not willfully do it?

Mr. ROOSEVELT. I think you misinterpreted my position.

Mr. BURDICK. Will the gentleman yield?

Mr. ROOSEVELT. I shall be happy to.

Mr. BURDICK. In most courts I have been in, the instruction given by the court before the jury retires in regard to willfulness is this: "I hereby instruct you that willfulness may be inferred from the overt acts proved." If all courts would interpret that rule in that fashion it would cover the obstacle you are up against, but some courts do not hold that.

Mr. BOYLE. I think if you want to be fair to all the facets, as I get the testimony of the Congressman he has no quarrel with the proposition that in assault and battery there is an intentional hitting or beating or pushing or shoving of an individual. He thinks, as I interpret the Screws case, that when you add to the assault and battery not only the intention to injury but also the intention to deprive the victim of his constitutional rights, you are reading into the law something that does not exist. The assault and battery is merely the intentional injury of a person. But if you go ahead and say in addition to that there should be the further element superimposed on that that the individual not only intended the willful assault and battery but should be alive to the proposition that his conduct is knowingly robbing the individual of his constitutional rights, it seems to me that was the superimposition of an element that was read into the law by judicial pronouncement and it was not in the law.

Mr. FORRESTER. I appreciate the gentleman's observation, but I think the only way we could construe the remarks of the gentleman from California is that the Government should not be compelled to prove beyond a reasonable doubt that the defendant intended to willfully deprive a man of his constitutional rights. No matter what is said here, the result would be to try a person twice for the same offense.

Mr. ROOSEVELT. If I may say so, I think Mr. Burdick, because of his great wisdom, has expressed my point of view exactly.

Mr. FORRESTER. I do not think so, for the court always instructs the jury substantially as Mr. Burdick said, in every criminal case.

Mr. BURDICK. I did not venture my remarks to convince you.

Mr. FORRESTER. What Mr. Burdick did was tell you what the court would charge the jury in every criminal case.

Mr. ROOSEVELT. If it could be written so that it could be interpreted that way automatically, I think the harmful decision rendered in the Screws case could be eliminated and we could have proper enforcement of the Federal statute.

Mr. FORRESTER. The law is and has been that the judges in criminal cases would charge the jury as suggested by the gentleman from North Dakota.

There is another question I would like to ask the gentleman. I noted with interest that you brought up the Moore case in Florida. What were those persons' names?

Mr. ROOSEVELT. Mr. and Mrs. Harry Moore.

Mr. FORRESTER. Was it Harry Moore?

Mr. ROOSEVELT. As I understand it.

Mr. FORRESTER. Do you know what his wife's name was?

Mr. ROOSEVELT. No; I did not know them personally.

Mr. FORRESTER. Maybe I can refresh your recollection. Was her name Harriet Lucy Moore?

Mr. ROOSEVELT. I believe I read that.

Mr. FORRESTER. Does the gentleman know, and can the gentleman tell me, if Harriet Lucy Moore lived in California before moving to Florida?

Mr. ROOSEVELT. I believe she did live there for some time, but I do not know the details.

Mr. FORRESTER. Can the gentleman tell me whether she did or did not live in the State of California immediately prior to moving to the State of Florida?

Mr. ROOSEVELT. No, I would not be able to say so factually. I would have to check it.

Mr. FORRESTER. Can the gentleman enlighten me as to whether Harriet Lucy Moore, at the time she lived in the State of California, was or was not a Communist?

Mr. ROOSEVELT. That I could not. I do not know of any trial of Mrs. Moore that showed she was a Communist or not.

Mr. FORRESTER. The gentleman has shown an unusual interest in this case and I was wondering if the gentleman had looked on the list of the California Un-American Activities Committee and is aware of the fact that a woman by that identical name was designated by the State of California as a Communist?

Mr. ROOSEVELT. The fact she was or was not a Communist, in my opinion, does not justify her murder.

Mr. FORRESTER. The gentleman has opened up a field I have been anxious to know about for some time. I heard on the floor of the House the State of Florida being maligned because of her murder. I have heard that from members of the California delegation. I wanted to know if the gentleman had made any attempt to discover the truth about this case?

Mr. ROOSEVELT. Yes, I have made every attempt to find the facts.

Mr. FORRESTER. Does the gentleman know when Harriet Lucy Moore went to the State of Florida?

Mr. ROOSEVELT. I do not see that that has anything to do with the fact she was murdered in Florida.

Mr. FORRESTER. Motive is always material. You have maligned the State of Florida. Have you given any thought to the possibility that she was murdered by persons from California?

Mr. ROOSEVELT. No. I am merely saying she was murdered in the State of Florida.

Mr. FORRESTER. If you will answer my question.

Mr. ROOSEVELT. I will try to.

Mr. FORRESTER. I want to find out if you folks have really tried to get the truth about this case. Have you tried to ascertain the motive for these killings?

Mr. ROOSEVELT. In the first place, I know Mr. Moore is not mentioned in any report you have referred to. Secondly, there are many people listed in that so-called report who have proven beyond any question that they are not Communists.

Mr. BURDICK. What difference does that make?

Mr. ROOSEVELT. I do not think it makes any difference, Mr. Burdick, but if Mr. Forrester wants to ask the question I will try to answer it.

Mr. FORRESTER. I will show the materiality motive and the type of weapons used are always material.

Mr. ROOSEVELT. I do not believe Mrs. Moore's name is mentioned in that report as the same person murdered in Florida.

Mr. FORRESTER. I will say there is a Harriet Lucy Moore listed in the California report.

Mr. ROOSEVELT. I have not been able to establish it was the same person. But have you established she was not the same person?

Mr. FORRESTER. I did not even know that she lived in California but I have suspected it and the gentleman has given me some information I did not know.

Mr. ROOSEVELT. I have read that particular fact, that she once lived in California, but I do not see it has any bearing on the fact that she was murdered in Florida.

Mr. BURDICK. I will say to the gentleman from California that I think the gentleman from Georgia is on a fishing expedition.

Mr. ROOSEVELT. There is good fishing in Florida usually.

Mr. BOYLE. I think he is interested in getting all the facts.

Mr. FORRESTER. If I am fishing, I am having a good day, evidently. Has the gentleman or any of those so concerned with maligning the State of Florida considered the fact that someone from California rather than from Florida might have killed Harry Moore and his wife?

Mr. ROOSEVELT. I did not understand the question.

Mr. FORRESTER. Have you given consideration to the fact that maybe somebody from California rather than from Florida killed Harriet Lucy Moore and her husband? That maybe they were traced to Florida by Californians and killed?

Mr. ROOSEVELT. All I can say is that no one has made such a charge until you just made it.

Mr. FORRESTER. Of course you have not. All the charges have been against Florida. That is the pastime.

Mr. ROOSEVELT. I am not a lawyer, but I understand when a murder is committed in a certain place it becomes the duty of the authorities in that place to conduct the investigation and to spearhead the apprehension of the guilty person.

Mr. FORRESTER. For the benefit of the gentleman I say to you it was murder, and I say the murderer ought to be apprehended if possible and that the murderer should be punished, but I am asking these questions because I have had some interest in this case too, and I am wondering if the gentleman has ever given any consideration to the fact that these people were killed by a bomb instead of a shotgun?

Mr. ROOSEVELT. I do not know.

Mr. FORRESTER. A good prosecutor would. It is a very material thing. If you have not considered it I want you to think about it. Have you ever in your lifetime heard of any murder committed by a Floridian or by a Georgian with a bomb? Search your memory.

Mr. ROOSEVELT. Frankly, no, I have never examined the means by which murder has been committed in Florida.

Mr. FORRESTER. But bombs have been used repeatedly in California in murders but never in Florida or Georgia.

Mr. ROOSEVELT. If a Californian committed the murder, I hope the Californian is punished. But I still say it is up to the people of Florida to do something about it because the murder was committed in Florida.

Mr. BURDICK. Have they done anything about it?

Mr. ROOSEVELT. That is my point. They have not.

Mr. FORRESTER. Does the gentleman contend that California apprehends all murderers?

Mr. ROOSEVELT. No, but they try to.

Mr. FORRESTER. Does the gentleman say Florida did not try to apprehend the murderer?

Mr. ROOSEVELT. I do not think they have made sufficient effort to get to the root of the thing.

Mr. FORRESTER. Well, let's see. Did not the FBI go down there?

Mr. ROOSEVELT. It is my understanding the FBI was very limited in its possible jurisdiction and finally had to pretty much withdraw from the case.

Mr. FORRESTER. Would it help the gentleman if I told the gentleman the FBI did go down there?

Mr. ROOSEVELT. And what did they do when they got down there?

Mr. FORRESTER. I assume they did what FBI people usually do.

Mr. ROOSEVELT. Would the gentleman deny the FBI decided there was not sufficient Federal law under which to operate?

Mr. FORRESTER. What is that?

Mr. ROOSEVELT. The FBI decided there was not sufficient Federal law to permit them to effectively operate.

Mr. FORRESTER. I would say that unless there is a Federal offense involved, thank God, the FBI cannot meddle in State affairs in California or elsewhere; but I want to suggest to the gentleman—and I am serious about this—I wish you people would give some thought to the fact that maybe somebody else could have committed these murders occurring in the Southern States other than southerners.

Mr. ROOSEVELT. I have not made the accusation that a Floridian killed Mr. and Mrs. Moore. I do not know where the murderer came from.

Mr. BURDICK. You did not imply that.

Mr. ROOSEVELT. I did not mean to imply that.

Mr. FORRESTER. I am suggesting if the gentleman traced this thing in California maybe he would get evidence. Your interest should incite you to do that.

Mr. ROOSEVELT. May I say I would like the FBI to have authority to do the tracing. It is not my job.

Mr. FORRESTER. You people are squawking about it. You are using this incident against the State of Florida.

Mr. ROOSEVELT. I want them to have the power to do it and I think the legislation I have introduced would give them that power.

Mr. FORRESTER. I would suggest to the gentleman in all sincerity that when I heard there was a bombing down there my mind went immediately to the conclusion that it was not homicide committed by a Floridian. Those people can use a shotgun too good. I venture to say there is not a man in that town who could have constructed a bomb. But many in California can and do use bombs.

Mr. ROOSEVELT. Let me emphasize again I am not interested in the place from which the murderer came. I am interested in seeing that murders of this kind be stopped and that when they are done the law-enforcement agencies should be strengthened so that we can find the murderers.

Mr. FORRESTER. Do you mean that in all cases the Federal authorities should be empowered to act?

Mr. ROOSEVELT. Wherever it affects a Federal statute. That is the matter I have before the committee to discuss.

Mr. MITCHELL. Mr. Chairman, I am Clarence Mitchell, of the National Association for the Advancement of Colored People. Mr. and Mrs. Moore are dead. They are not here to defend themselves. We know in our organization they were not at any time ever members of the Communist Party or connected with it in any way, and at the appropriate time we will be happy to produce witnesses before this committee who could testify to that fact if you so desire. One of Mr. Moore's daughters lives here in Washington and I would be happy to produce her if the committee so desires.

Mr. ROOSEVELT. Mr. Chairman, I would be very happy to stay to answer any questions and could return later, but I have an executive meeting of the committee of which I am a member, and they have sent word they will have a vote, and I would like to be excused as soon as possible.

Mr. LANE. Before you complete your testimony, the purpose of your proposed legislation is to get at some of the cases where the local authorities in some of the States turn their backs on some of these crimes. This was manifest for many years when crimes were committed and tied to the Ku Klux Klan and other organizations that ran rampant in certain sections of the country. Subsequently it was brought to the attention of the Congress that either the local authorities must improve or the United States Government would put laws on the books whereby they could step in and take over and enforce the criminal laws. I suppose that is the purpose of your bill, to get at those particular crimes that have been committed in the past?

Mr. ROOSEVELT. Mr. Chairman, you have stated it very, very well.

Mr. FORRESTER. Now, Mr. Chairman, I want to make a statement also. So far as I am concerned, there is not a man anywhere more opposed to murder than I am, whether he is black or white or pink or blue or whatnot. I have had 27 years' experience as a prosecuting

attorney, and I am willing to throw the book at them and let them look at it. All I was trying to do was get some answers to some of the impressions that have been created all over the country and suggest there might be two sides. I have not said anyone was or was not a Communist. I simply asked if there had been an investigation made of that. And I wondered if they had given thought to the fact that the Moores might have been killed by outsiders. I hoped that might be helpful.

Mr. LANE. Have you finished your statement, Congressman?

Mr. ROOSEVELT. Yes, I have, and I appreciate the privilege of appearing before you.

Mr. MILLER. Mr. Chairman, I would like to ask a question.

Mr. LANE. Mr. Miller.

Mr. MILLER. This civil-rights legislation, of course, is not new?

Mr. ROOSEVELT. No.

Mr. MILLER. The gentleman has had some experience on the Washington scene since 1933?

Mr. ROOSEVELT. Yes, sir.

Mr. MILLER. And all during that period of time civil-rights legislation such as this was never passed?

Mr. ROOSEVELT. I do not believe it ever has been, and I can only say I regret that it has not been.

Mr. MILLER. Do you disagree with Congressman Powell that since the advent of President Eisenhower there have been tremendous strides made in the field of civil rights?

Mr. ROOSEVELT. No, I do not disagree. I believe the President has tried to bring this matter to public attention. But I think perhaps he has been misled by thinking the fundamental way to do this is by administrative action.

Mr. LANE. Thank you.

Mr. FORRESTER. I hope the Congressman will not interpret my remarks as not feeling he has a perfect right to advocate anything he wants to. I cheerfully concede him that right. I hope he understands what I was talking about.

I simply object to States being maligned immediately without full inquiry into all the facts and the maligning used as basis for laws against States.

Mr. ROOSEVELT. I certainly do, Congressman Forrester.

Mr. LANE. Is there anybody here who would like to testify at 2 o'clock? I am advised that some of the organizations have been notified to testify 2 weeks from today.

Mr. MITCHELL. I think the organizations would prefer to be heard on the 27th because we are having a meeting on the 19th to discuss the things that will be brought out in order not to duplicate the testimony.

Mr. LANE. Are there any persons in the room not connected with these organizations who wish to testify on these civil-rights bills this afternoon at 2 o'clock?

(No response.)

Mr. LANE. Otherwise the hearing on civil-rights bills will be suspended at this time until tomorrow morning, at which time we hope to hear from some of the departments and agencies of government.

We have the statement of Congressman Peter W. Rodino, Jr., of New Jersey, a member of this committee who is occupied in his own

subcommittee and is unable to be here but has submitted a statement for the record, and we will be pleased to insert it in the record at this point.

(The statement referred to is as follows:)

STATEMENT OF REPRESENTATIVE PETER W. RODINO, JR., ON H. R. 702

Mr. Chairman and members of the committee, to those of us who are fortunate enough to be Americans, nothing is of greater importance than the civil rights which we enjoy. These rights are a source of great pride and satisfaction to us—and justly so. But their real significance goes far deeper. American freedom is rooted in these rights. They are, perhaps, the distinguishing characteristic of our country. They are the first things Americans think of when they want to describe their country, and they are the standards by which the rest of the world measures us.

The civil rights we now have were not given to us. In the beginning, it was a fight to get them, and we have had to fight many times to keep them. It is incumbent upon us that we should continue to enlarge the scope of our civil rights so that all Americans in all fields of activity may exercise them to the fullest extent. This is progress in the noblest meaning of the word. We cannot expect a perfect society here on earth, but we in Congress are most certainly committed to do everything we can to guarantee to every citizen the full rights that are inherent in the promise of American freedom.

The United States has become the greatest Nation on earth because it has always met its problems with courage, resourcefulness, and imagination. However, despite the great amount of freedom which is ours, there is still much that must be done in the field of civil rights. Many of our people are deprived of a part of their American heritage because of our inactivity. These people hope for something more, and they are entitled to expect more.

There is, in the area of civil rights in the United States, a gap between principle and practice. I believe that H. R. 702, of which I am the author, will go a long way toward filling this gap. I think my bill is a good one, and I am grateful to the subcommittee for the opportunity to present this statement today in support of it.

It is not my intention in this statement to go into any great detail concerning H R. 702, but I would like to discuss it briefly and in general terms. I believe sincerely that this bill covers those areas of civil rights where present shortcomings are the most glaring and where legislation by the Federal Government would be most effective. H. R. 702 is a bill to protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin. The introduction to the bill sets forth in broad language the responsibilities and duties of the Congress with respect to civil rights. It declares that the abridgment of the civil rights of some of our citizens is destructive to the integrity and dignity of the individual and damaging to the security and general welfare of our country.

Title I is designed to assure the protection of our citizens from mob violence and lynching. After carefully defining a lynch mob and a lynching, this section of the bill makes subject to a heavy fine, or imprisonment, or both, anyone found guilty of any participation in a lynching. State and local officers who fail to make all diligent efforts to prevent a lynching are also subject to severe legal penalties. If such negligence is reported under oath to the Attorney General of the United States, he is enjoined to make an investigation to determine whether this title has been violated. Responsibility for lynchings is also placed upon local government subdivisions by leaving them open to suit in a Federal district court if they fail to prevent a lynching within their respective jurisdictions.

The purpose of title II is to strengthen the protection of the individual's rights to liberty, security, and citizenship and its privileges. It provides for penalties against persons who seek to deprive any inhabitant of a State, Territory, or district of those rights and privileges secured to him by the Constitution of laws of the United States.

This title extends to all persons a greater protection of their right to vote and to participate in the political process. It also prohibits discrimination and segregation based on race, color, religion, or national origin on public conveyance in the United States operating in interstate or foreign commerce. Anyone who attempts to enforce discrimination or segregation in transportation under these circumstances may be sued in a Federal district court.

The prohibition of discrimination in employment because of race, religion, color, national origin, or ancestry is set up under title III of H. R. 702. Under this title the right to employment without discrimination based on these factors is "recognized as and declared to be a civil right of all the people of the United States." Title III would create a National Commission Against Discrimination composed of seven members appointed by the President and approved by the Senate.

This Commission would have broad powers to appoint necessary agents to carry out its work, to cooperate with State and local agencies, to make investigations and hear witnesses, to provide technical assistance and make technical studies, to create local and regional advisory and conciliation councils, and so forth. Procedures are established to hear grievances from both employers and employees, and a careful system for review is set up.

The substance of title IV is simply that "there shall be no discrimination against or segregation of any person in the armed services of the United States or the units thereof, or the reserve components thereof, by reason of race, religion, color, or national origin of such person."

The purpose of title V of H. R. 702 is to eliminate discrimination or segregation based on race, color, religion, or national origin in opportunities for higher and other education. The rights of religious or denominational schools would not be impaired by this bill.

This part of the bill defines certain unfair educational practices and establishes procedures for the hearing of grievances and for the investigation of complaints. Much of the responsibility for the enforcement of the provisions of this title and for the conducting of investigations would fall upon the Commissioner of Education. An adequate system of judicial review is provided for in the Federal court system.

The payment of a poll tax as a prerequisite for voting in a primary or other election for national office would be outlawed by the provisions of title VI. By this title, State, municipal, and other governmental divisions would be prohibited from assessing any tax which would have to be paid in order to vote or to register to vote in any election for a national office.

Title VII of H. R. 702 would prohibit segregation and discrimination in housing because of race, religion, color, or national origin. Under this title no agency of the United States, nor any Federal Government corporation, could insure or guarantee a home mortgage unless the mortgagor first certified under oath that he would not practice discrimination or segregation on the above grounds. A policy of nondiscrimination would also be applicable in the administration of various Federal Government housing acts.

Title VIII contains provisions to strengthen the machinery of the Federal Government for the protection of civil rights. It would create a Commission on Civil Rights composed of five members appointed by the President by and with the advice and consent of the Senate. The Commission would gather information, appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights, and appraise the activities of the National, State, and local governments, and of individuals and groups, to determine what activities adversely affect civil rights.

Title VIII would also bring into the Department of Justice an additional Assistant Attorney General, in charge of the Civil Rights Division, to look into matters pertaining to the preservation and enforcement of civil-rights laws.

Finally, this title would establish in Congress a Joint Committee on Civil Rights with broad powers to make a continuing study of civil-rights matters and to offer advice and recommendations

This completes the very sketchy outline of the provisions of H. R. 702. I feel sincerely that it is a fair bill and a necessary bill which, if enacted into law, will go far toward guaranteeing many of our citizens the rights they do not now enjoy but to which they are fully entitled. This seems to me to be in the best tradition of America. In fact, I do not see how we in Congress dare do less.

Under this bill, much of the responsibility for the preservation of our civil rights and the enforcement of our civil-rights laws will be with local governments. In some instances Federal action is necessary, and it is authorized in this bill. I think the bill provides for sound administrative machinery to hear grievances and to act upon them. H. R. 702 is also careful to assure that due process of law is observed so that a just solution to civil-rights issues will be obtained.

It has been argued that civil rights cannot be legislated, that their preservation and extension are essentially a moral problem that only education, not law,

can cope with. This can hardly satisfy the many thousands, even millions, of Americans who live in the shadows of second-class citizenship. Furthermore, those who believe this are far from being entirely correct.

For example, it is certainly true that many people find their rights sharply curtailed by laws. There is surely no reason why we cannot do something by law to combat these evils. Secondly, civil rights are often infringed upon or jeopardized by antisocial actions which can be curbed by law. Finally, the enactment of civil-rights legislation can engender the idea and atmosphere of freedom in which the rights of men can grow and prosper.

Presidents Roosevelt, Truman, and Eisenhower have all urged that legislation be enacted to strengthen civil rights in the United States. Both the Democratic and Republican Party platforms in 1944, 1948, and 1952 contained civil-rights planks. In the past few years literally scores of civil-rights bills have been introduced into Congress. Yet practically nothing in the way of legislation has been accomplished.

Congress alone is to blame for many of the deficiencies in the civil rights of the United States. The time has certainly come to move beyond the talking stage and start acting. I believe that H. R. 702 is a good place to begin, and I sincerely hope that it will receive the earnest consideration of this subcommittee.

Mr. LANE. We also have a statement from Congressman Victor L. Anfuso, of New York, which will be placed in the record at this point as one interested in his own bill, H. R. 5503.

(The statement referred to is as follows:)

STATEMENT BY CONGRESSMAN VICTOR L. ANFUSO ON H. R. 5503

Mr. Chairman and members of the committee, I appreciate the opportunity to present my views to your committee on my bill, H. R. 5503, to promote further respect for and observance of civil rights within the United States.

I am happy to say that we have made considerable progress in recent years in the direction of eliminating discrimination and racialism in this country, but we still have a long road to travel before we can attain true understanding, equality of opportunity, and human brotherhood. Among the most important basic principles that have been handed down to us by the founders of our great Republic is the heritage of freedom, the concept of equality of opportunity, the belief that the individual should be judged strictly on the basis of ability and achievement. The flames of intolerance would have consumed this Nation long ago if these principles had not been made the core of the American creed.

One of the greatest struggles within the conscience of the American people today is to justify our practices of racial and religious discrimination in the light of our moral and democratic principles. The fact remains that there is no moral justification for racial or religious discrimination. It undermines the foundations of our way of life and it destroys the economic opportunities for all. Discrimination based upon a person's religious beliefs, or his national origin, or the color of his skin cannot be reconciled with the American concepts of justice and the brotherhood of man. In order to build and maintain a great nation such as ours we must make use of all the human resources of the country, but if we deny certain groups among our citizens the opportunity to develop their skills, then it is not only a contradiction of our own principles but we are actually hurting our country and its interests.

Law is an effective instrument for changing social conditions and law acts as a powerful factor in preventing discrimination. It fosters the conviction that discrimination is wrong by fixing standards which are respected by the majority of the people. Because people as a rule are law abiding, their behavior tends to create customs which are in harmony with the law.

For some time now Communist propaganda has been exploiting every manifestation of prejudice in the United States in order to spread hatred against us among the peoples of Asia and Africa. They tell many untruths and half-truths about our treatment of minorities, while the true facts are distorted to give a false impression of the extent of discrimination in this country. This forces us to be on the defensive and apologetic, and it affects American prestige and moral leadership among the peoples of the world.

Consequently, I believe the time is long overdue for us to seek to eliminate all remnants of discrimination in this country through the means of effective legis-

lation. The civil rights bill which I have drawn up is comprised of four titles, dealing with specific problems, and these four sections of the bill are as follows:

Title I, Civil Rights Commission: Under this title the President is authorized to establish a Civil Rights Commission composed of 3 members, for a period of 3 years each. The purpose of the Commission shall be to conduct a continuing study of the policies, practices, and the enforcement program of the Federal Government with respect to civil rights, and of the progress made throughout the Nation in promoting respect for and the observance of civil rights. The Commission shall report its findings and recommendations each year to the President and to Congress.

Title II, prohibition against poll tax: This section recommends that the requirement for payment of a poll tax as a prerequisit to voting or registering to vote in a primary or other election for President, Vice President, and Members of both Houses of Congress, shall be abolished. It shall be declared unlawful for any State, municipality, or other governmental subdivision to levy a poll tax on the right to vote or registering to vote.

Title III, protection from mob violence and lynching: Groups of two or more persons who commit or attempt to commit violence upon an individual or a group because of their race, color, national origin, or religion, shall be recognized as a lynch mob and violence committed by them shall constitute lynching. Members of such lynch mobs who willfully incite or commit a lynching shall be guilty of a felony and punishable by a fine up to $10,000 or imprisonment up to 20 years or both.

Title IV, equality of opportunity in employment: This section declares that discrimination in employment which is based on race, color, national origin, or religion, is contrary to American principles of liberty and equality of opportunity, it deprives our country of its full productive capacity, and it forments industrial strife and unrest. Discrimination in employment is made unlawful. The bill creates a commission to be known as Equality of Opportunity in Employment Commission, composed of seven members to be appointed by the President, whose purpose shall be to seek to prevent or discontinue discriminatory practices in employment through investigation, conciliation, and persuasion. Where necessary, the aid of regional, State, and local agencies should be obtained. Where voluntary methods fail, the Commission is to be empowered to issue complaints, conduct formal hearings, and issue cease-and-desist orders enforceable in the courts.

Our country is comprised of people who come from all races, religious beliefs, and national origins. All of them have made important contributions toward the development of the United States as a great Nation and toward shaping its destiny. I am strongly opposed to the creation of second-class citizenship for any group in this country, because I do not believe in the superiority of one race or one nationality group over another. As soon as we encourage second-class citizenship, we open the door for discrimination and bigotry.

Somewhere recently I came across the following lines:

"Give us wide walls to build our temple of liberty, O God.
The North shall be built of love, to stand against the winds of fate;
The South of tolerance, that we may building outreach hate;
The East our faith, that rises clear and new each day;
The West our hope, that even dies a glorious way.
The threshold 'neath our feet will be humility;
The roof—the very sky itself—infinity.
God, give us wide walls to build this great temple of liberty."

We must continue to build with love and tolerance; we must continue to have faith in our country and in its future; and we must continue to hope for human brotherhood, for freedom, and for true understanding among the nations and the peoples of the world.

Mr. Chairman, I am grateful to the committee for giving me the opportunity to discuss the salient points of my bill. I sincerely hope that you will give my bill favorable consideration.

Mr. LANE. We also have statements from Congressman Hugh J. Addonizio, Representative from New Jersey, and Congressman Henry S. Reuss, Representative from Wisconsin.

(The statements referred to are as follows:)

STATEMENT OF HUGH J. ADDONIZIO, REPRESENTATIVE FROM NEW JERSEY, ON H. R. 51

Mr. Chairman and members of the committee, I am happy that you have scheduled these hearings on my bill, H. R. 51, and other civil-rights measures, and I appreciate having this opportunity to urge your favorable consideration of these proposals designed to strengthen and make more perfect our beloved way of live.

A few days ago, the American Nation celebrated the 179th anniversary of our country's independence. We observed Independence Day with displays of fireworks and with patriotic addresses that once again called our attention to the high principles embodied in the Declaration of Independence by our Founding Fathers.

The very heart of that which we celebrate every July 4 is found in the second paragraph of the Declaration, and has been well known to every one of us since our early school days.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness."

These "unalienable rights" of which the Declaration speaks are the civil liberties guaranteed to us in the first 10 amendments to the Constitution of the United States, commonly termed the American Bill of Rights, and the civil rights and privileges which are morally the heritage of every human being regardless of his membership in any ethnic or religious group. These are the right to work, to education, to housing, to the use of public accommodations, of health and welfare services and facilities, and the right to live in peace and dignity without dicrimination, segregation, or distinction based on race, religion, color, ancestry, national origin, or place of birth. There as the rights which all governments, whether Federal, State, or local, have the duty to defend and expand.

Civil rights are simultaneously both the keystone and the barometer of American democracy. It is not too strong a statement to say that upon their preservation and further development rests the future of popular rule. The extent to which civil rights are respected or denied indicates whether government by the people is being upheld or undermined. Our American democracy was founded upon the principles of freedom, equality, and the affirmation of the worth and dignity of the individual. Whenever these principles are endangered, our democratic system is threatened.

It is vitally important to us here in the United States to make these principles a living and constantly growing reality, but it is of paramount importance to the other peoples of the world, for they are witnessing at the present time a struggle between the champions of freedom on the one hand and the forces of totalitarianism on the other. In this struggle for men's minds, democratic and liberty-loving peoples everywhere turn hopefully to the United States for leadership. We have built up tremendous industries and our land is endowed with vast natural resources. If the American people and what we represent are to play a really decisive role in other lands, however, we must continue to strengthen and perfect our democracy here at home. As long as racial or religious minorities are denied equality of rights, as long as any minority group is not permitted to exercise all the prerogatives and privileges of citizenship, and as long as all the people of this land of ours do not enjoy full equality before the law, our American democracy at the very best is defective, partial, and imperfect.

In every area of American life, the gap existing between ideals and practice is closing—slowly, to be sure, but steadily. Our courts, our State legislatures, our municipal councils, and our civic leaders are continuing the forward march toward the concept of equal justice and opportunity for all.

The most striking example of this closing of the gap between ideals and practice is the decision of the United States Supreme Court on May 17, 1954, that compulsory racial segregation in State-supported elementary and secondary schools violated that clause of the 14th amendment to the Constitution which requires that all persons born or naturalized in the United States should be afforded the "equal protection of the laws." This decision culminated a two-decade campaign to bring about a reappraisal of the "separate but equal doctrine" first laid down by the United States Supreme Court in 1896.

For more than half a century, the Supreme Court had accepted the doctrine that it was not discriminatory to require separation of the races, provided the facilities maintained for the two races were substantially equal. Increasingly

during recent years, however, that doctrine had been attacked by lawyers and social scientists on the ground that it failed to take into account the stigma of inferiority implied by compulsory segregation. Finally, on May 17, 1954, after 3 days of argument by attorneys for both sides in December 1952, and similar reargument in December 1953, the Supreme Court handed down its unanimous decision.

Virtually the entire press of Western Europe reacted with enthusiastic approval of the Court's decision. Publications usually lukewarm to United States policies, or opposed to them, joined in this approval. These included in England, the Labor Party's Daily Herald and the highly respected Observer; in France, Le Monde, the spokesman for neutralist elements; in Switzerland, the Tribune de Geneve; and in Germany, the influential Stuttgarter Zeitung. Some idea of the ideological importance of the decision in the struggle between the Western World and communism can be seen in the fact that papers like L'Humanite, the leading French Communist daily newspaper, did not print a single word about the action of the Supreme Court, though it was front-page news in all but the Communist papers.

While progress in areas other than education has been considerably less spectacular, nevertheless, it has continued steadily since the end of the Second World War, and particularly since 1947, when the President's Committee on Civil Rights issued its historic report.

This report set forth four basic rights as being essential to the well-being of the individual. The first of these is the right to safety and security of person Freedom can exist only where every individual is secure against bondage, lawless violence, and arbitrary arrest and punishment. Where individuals or mobs take the law into their own hands, where justice is unequal, no man is safe.

The second of these basic rights is the right to citizenship and its privileges. In a democracy every citizen must have an equal voice in government. Citizenship cannot be withheld because of race, color, creed, or national origin. All privileges which accrue to one citizen must of necessity be available to every citizen.

The third basic right is that of freedom of conscience and expression. A free society is based on the ability of the people to make sound judgments. Such judgments, however, are possible only where there is access to all viewpoints. Freedom of expression may be curbed only where there is a clear and present danger to the well-being of society.

The last of these four basic rights which were set forth by the President's Committee on Civil Rights was the doctrine that full citizenship entitles every American, regardless of race, creed, or national origin, to full equality of opportunity in securing gainful employment, in enjoying equal access to education, housing, health, and recreation services, and in transportation and other public and semipublic facilities.

I have every confidence that our Nation will continue to progress in the civil-rights area, just as I am sure that America will continue to lead the world in industrial expansion. Since 1947, substantial progress has been achieved in eliminating segregation, not only in education but in the Armed Forces of our Nation and in amateur and professional athletics. Discrimination in employment, housing, and public accommodations has been, and continues to be, reduced. Those who look to this Nation for proof that democracy can fulfill its promise have reason to be greatly heartened by the advances of the past 8 or 10 years. However, much progress remains to be made, and the most effective method is, in my opinion, by legislative action as proposed in the pending legislation. I hope that your committee will see fit to report favorably this most important legislation and thus, as H. R. 51 expresses it, "preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations."

STATEMENT BY CONGRESSMAN HENRY S. REUSS IN SUPPORT OF CIVIL-RIGHTS BILLS

Mr. Chairman, the seven civil-rights bills, H. R. 5343, H. R. 5344, H. R. 5345, H. R. 5348, H. R. 5349, H. R. 5350, H. R. 5351, which I have introduced and which have been referred to the House Committee on the Judiciary are all an outgrowth of the recommendations made by President Truman's Committee on Civil Rights. This Committee laid the groundwork for safeguarding civil rights in this country. It put the initiative for action on the shoulders of Congress. It

is now nearly 9 years since the Truman Civil Rights Committee made its report to the Nation. Congress has so far failed to implement what the best minds in the field of civil rights said was needed.

It is suggested that Congress will never approve civil-rights legislation until the Senate discards rule 22 requiring a two-thirds majority of the Senate to shut off debate. It is said that a minority will always filibuster to death any civil-rights bill whichever reaches the Senate floor.

I do not want to raise false hopes, but it seems to me that there is merit in approving civil-rights legislation in the House. If the House fails to act and remains silent on the question of civil rights, this only encourages the Senate to indulge in interminable delays of its own. Somebody in Congress has got to move, and I heartily commend this committee for launching hearings on these bills

It is no secret that opposition to civil-rights bills stems largely from the South. But I hasten to say that prejudice is no monopoly of the South. I recognize that the large Negro population of the South creates special tensions which are not changed overnight. The South has made remarkable headway in minimizing racial prejudice during recent years. Its progress in this respect often puts the North to shame.

The civil-rights bills which I have introduced would help to eradicate second-class citizenship in America.

There are people who speak of this as a golden age for America. Others say we are in the American century. Whatever it is, there are many minority people in our land who are not sharing in the good things of life. Surely nothing has damaged America's reputation abroad more than our treatment of colored people.

The gentleman from New York (Mr. Powell) could go to the Bandung Asia-African Conference this year and tell the leaders of the colored nations that America has made great strides in eliminating segregation and discrimination. Yet many of the things which Congressman Powell discussed with such pride about America are changes in our customs which were considered unthinkable and impractical 10 or 20 years ago.

I want to suggest to this committee that the civil-rights laws which I have introduced and are now before you are merely the next steps needed to complete the protection of civil rights for all Americans.

There is no stronger armor in our defenses against communism than what we say and do about the rights of individuals under the law. The following bills have been introduced by me to give every American citizen equal rights under the law and I ask that this committee give them favorable consideration:

H. R. 5343 would protect the right of political participation;

H R 5344 would strength the laws relating to convict labor, peonage, slavery and involuntary servitude;

H. R 5345 would outlaw lynching and protect citizens from lynch mobs;

H. R 5348 would set up a permanent Commission on Civil Rights, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights;

H. R. 5349 would amend and supplement existing civil-rights statutes;

H. R. 5350 would create an additional Assistant Attorney-General in the Department of Justice with the full-time job of enforcing civil-rights laws; and

H. R. 5351 would set up a Commission on Civil Rights within the executive branch of the Government.

Each of these bills has been carefully drafted from the store of wisdom given the Congress by the Committee on Civil Rights, whose recommendations await implementation

H. R. 690 introduced by Congressman Powell seems to me meritorious for these reasons:

1. An FEPC law would raise our standing in the eyes of the world. By eliminating all discrimination in job opportunity we would be making democracy work and proving what the Communists say about us is wrong.

2. Our expanding economy demands that we provide job opportunities for all Americans. An FEPC law would unlock new sources of purchasing power which would help keep our economy moving. Millions of Americans are now forced to work at substandard wages, many times because of their race, color, nationality, or ancestry. An FEPC law would be a boost to our economy.

3. Our wartime experience with FEPC showed that an enforcement law prohibiting discrimination in employment can get results without causing great havoc or any of the dire upheavals which the critics of FEPC have prophesied.

I call your attention to the thoughtful testimony in the 1949 House Education and Labor hearings (p. 548) by Mrs. Majorie Lawson, who was Assistant Director of the Division of Review and Analysis for the wartime FEPC:

"During its peak activity, FEPC closed about 250 cases a month. Of these, 100 were satisfactory adjustments. This meant that a valid complaint of discrimination had been filed, and investigation made, evidence of discrimination found, and a settlement reached by means of peaceful, on-the-spot negotiations at least 100 times a month. These cases never were referred to the national office in Washington, there were no public hearings held, there was no publicity about the matter one way or another in the newspapers. These cases were like happy marriages. No one heard about them. Perhaps they were presumed not to exist. But the reports on every one may be read today in the FEPC files in the National Archives. The big recalcitrant cases, involving the southern railroads and the railway brotherhoods, the boilermaker's unions, and the Capital Transit Co., of Washington, D. C., made the headlines, just as divorce statistics do. These railroads, unions, utilities were aggregations of power which dared to range themselves against the power of Government when it had not spoken in a clear, authoritative voice. These cases demonstrate that the effective enforcement of Government policy must rest on the sanctions which are included in H. R. 4453" (p. 548, printed hearings on H. R. 4453 before a special subcommittee of the Committee on Education and Labor, 81st Cong.).

4. Finally, State FEPC laws have worked well, contrary to predictions otherwise. I call your attention to an illuminating comment appearing in Business Week magazine for February 25, 1950, which states the attitude of a conservative business publication on how FEPC with enforcement powers works at the State level:

"Employers agree that FEPC laws haven't caused near the fuss the opponents predicted. Disgruntled jobseekers haven't swamped commissions with complaints. Personal friction hasn't been all serious. Some employers still think there's no need for a law. But even those who opposed an FEPC aren't actively hostile now."

I sincerely hope that this committee will send to the floor of the House of Representatives the kind of civil-rights legislation which will give all Americans equal justice under the law. The bills which I have introduced are intended to accomplish exactly that goal.

Mr. LANE. If there is nothing further at the moment the committee will stand adjourned until 2 o'clock this afternoon, when we will take up Texas City disaster claims.

(Thereupon, at 12 noon, the hearing was adjourned.)

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CIVIL RIGHTS

THURSDAY, JULY 14, 1955

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 2 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 10 a. m., in room 346, House Office Building, Hon. Thomas J. Lane (chairman) presiding.

Mr. LANE. The committee will come to order.

This Committee on the Judiciary will now continue the hearings which started yesterday on these civil-rights bills. Bearing in mind there are 51 of these bills, I expect that the speakers will confine themselves to any one or any group of them.

The committee is fortunate this morning in having before us a former Member of Congress for whom we have the greatest admiration and respect who served in the House for a number of years. We welcome his presence here this morning and are always pleased to hear from our friend Al Cole, former Congressman from Kansas and now Administrator of the Housing and Home Finance Agency.

We are pleased to have you here, Congressman Cole, now Administrator Cole, for anything you may suggest or recommend to us in reference to this legislation. It is my understanding you wish to confine your remarks to one particular bill. Is that H. R. 389?

Mr. COLE. Yes, Mr. Chairman. H. R. 389, of course, is similar to other bills introduced by other Members and therefore it would seem to me that comments with respect to H. R. 389 would cover the broad policy problems involved in similar proposals.

Mr. LANE. You may proceed.

STATEMENT OF HON. ALBERT M. COLE, ADMINISTRATOR, HOUSING AND HOME FINANCE AGENCY, ACCOMPANIED BY HON. OAKLEY HUNTER, COUNSEL

Mr. COLE. Mr. Chairman, I would like if agreeable with the chairman to address my remarks so far as I am concerned primarily, or I should say solely, to part 6 of H. R. 389, which is the prohibition against discrimination and segregation in housing. That appears on page 44 of H. R. 389.

Mr. LANE. Very well. You may proceed.

Mr. COLE. Thank you, Mr. Chairman. I am delighted indeed to have this opportunity to appear before this distinguished committee, and I appreciate the chairman's comments about my personal relationship with the House and the Congress.

Mr. LANE. You always get along with all Members of the Congress on both sides.

Mr. COLE. That is very nice indeed. As you know, I have great admiration for my colleagues as individuals and as Members of what I consider the greatest legislative democratic body in the world.

I do not have a prepared statement. May I say that my remarks with respect to H. R. 389 have not been processed by the Bureau of the Budget and therefore I am appearing here, upon invitation of the committee, to assist the committee in such manner as it is possible for me to do so, although I cannot advise the committee that the Administration has approved or disapproved H. R. 389. In other words, the statements which I am to make are the statements Al Cole makes as Administrator, of course, based upon his experience as Administrator. If perhaps I can be of some assistance to the committee, I am delighted to have this opportunity.

Mr. Chairman, since I took this office a little over 2 years ago, I have been deeply concerned about this tremendously complex, controversial, and difficult problem of obtaining decent housing in good neighborhoods for all of the people, but particularly have I been concerned about it with respect to the Negro race. There are other situations in housing that call upon my attention. There are other situations with respect to discrimination that call upon my attention, but particularly have I been concerned about the problem of obtaining decent housing, nondiscriminatory housing, for Negroes. And I think I can say that my public speeches and statements contain evidence of my concern about this and probably evidence that I am as much concerned as anybody in the Government either in the executive or legislative branch. I have appeared before industry, public interest groups, bankers, mortgage bankers, realtors, local public authorities, housing officials, and others interested in the Nation's housing problems and have time and time again called upon them to consider this problem.

One of the definitive statements I made was contained in a speech to the Detroit Economic Club on February 8, 1955. I am not going to quote the speech but if I may, with your permission, I will quote one paragraph:

> It is very poor business to ignore one-tenth of our population as a housing market. It is worse than bad business. We are simply not living up to the standards of a free economy and a democratic society. For the housing economy has not been a free economy for the Negro. If he wants to get out of a slum, his best hope usually has been to pay a premium price for a house in bad condition in a deteriorating neighborhood. If he finds a house he can buy, he must pay more than the normal market price for it—simply because he isn't free to compete on the market. If he is able and willing to pay the price, he has difficulty getting financing on reasonable or even equal terms. Yet today these minority families constitute a growing and important part of our society. It is ironic that though they contribute through savings and investments a very substantial part of our capital which is needed to support the overall housing and our other productive activities, they are the last in line when it comes to borrowing money to build or buy a home.

Now, in addition to making speeches, Mr. Chairman, I brought to Washington a committee to discuss the problems of minority housing. We had 2 days of very interesting discussions. I believe for the first time in Government, so far as I know at least, there were brought together people representing different points of view who sat around a table to discuss their attitudes and ideas about the prob-

lem of housing for minority races, and particularly for the Negro; people who had never before had the opportunity to freely discuss—and they did quite a good job of freely discussing—their attitudes, their backgrounds, their ideas, policies, and the complexity of the problem.

Mr. LANE. Had that ever been tried before in your department?

Mr. COLE. So far as I know it had not. So far as I know it was a novel idea. I had representatives of labor, representatives of bankers, representatives of life insurance companies, representatives of public interest groups, representatives of the NAACP, and other interested parties covering the periphery of this question. Since that time I have had other discussions in my office with many people involved in this difficult and complex problem.

We are in constant—I use that word advisedly—consultation with people involved in this problem and we in the Housing Agency are constantly discussing and attempting to find solutions that will meet the objectives of the Government and of the people of the country. That objective, as I see it, is to help people find decent housing in good neighborhoods, and this irrespective of their race, religion, or color. This is our job, I believe. Everybody in the United States is entitled to that type of an approach to the problem.

As I said at the beginning, I want to give you a little bit of my thinking about this bill itself because, as the committee is well aware, when a bill is introduced and the committee considers it, the committee can talk about broad policy and talk about what you want to do as a matter of policy, but you have a yes or no vote upon amendments, upon sections of the bill, upon technical provisions in the bill, and it is in my humble opinion the responsibility of the committee to recommend to the Congress legislation which is within the policy of the Government, that it is constitutional, that it can be carried out administratively, and that it will be an effective force as a legislative proposal.

Therefore, Mr. Chairman, although I do not have clearance from the Bureau of the Budget in order to give you the attitudes of the administration, while we are working diligently to determine administrative policies upon this matter, I am going to approach it in this manner, by saying there are certain questions this bill presents which I would like to call to the committee's attention for your consideration.

First, there are 3 or 4 major approaches in part 6 of this bill. One, I believe, would approach the problem of public housing because public housing is subsidized by the Federal Government. In other words, tax money of the Federal Government is used to subsidize public housing for the benefit of low-income people.

Secondly, the bill approaches the idea of discrimination in the insured mortgage loan program such as FHA.

Third, it approaches the idea of discrimination with respect to Government grants and loans, Government money directly used for the purpose of building or constructing houses.

Mr. BOYLE. Will the gentleman yield?

Mr. COLE. Certainly.

Mr. BOYLE. Is it not the congressional intent to have the public housing program dovetail with the FHA?

Mr. COLE. Yes, if you are talking about the workable program, but FHA has nothing to do with the public-housing program. The community has the responsibility of considering all segments of housing, and making the determination as to public housing.

Mr. BOYLE. The FHA is set up as probably the most exclusive insurance in the world, where you only take a lot of fine preferred risks, is that not true?

Mr. COLE. No.

Mr. BOYLE. Actually what is your record to date of mortgage failures in FHA?

Mr. COLE. About one-fourth of 1 percent.

Mr. BOYLE. So that it is a high ratio of nonloss, is it not?

Mr. COLE. Yes, it is a high ratio.

Mr. BOYLE. It is exceptionally high. As a matter of fact, Mr. Administrator, on that basis actually there is little or no risk?

Mr. COLE. I do not agree with the Congressman.

Mr. BOYLE. As a matter of fact you testified, or some of your administrators testified, in my presence not more than 5 months ago that the loss was less than one-tenth of 1 percent.

Mr. COLE. It is either one-tenth or one-fourth of 1 percent. It is nominal.

Mr. BOYLE. It is almost out of the picture.

Mr. COLE. What is out of the picture?

Mr. BOYLE. One-tenth of 1 percent when you are insuring mortgages looks to me as though your underwriting requirements are so absolutely strict as to be exclusive.

Mr. COLE. In answer to that I will say first, the Congress has required the FHA, particularly in the section 203 program, the 1-to-4-family sales houses, to use a standard of economic soundness. This is the history of FHA and this is the procedure provided by the Congress and the rules and regulations have been set up under that.

Second, may I point out to you that the real test of the FHA has not yet come. We hope it will never come. But FHA, in the growing years of the agency, has carried out its functions in a rising economy; by and large we have had good times. Heaven forbid we ever have another kind of times, but the real test of the loss ratio will come if the economy begins to dip and foreclosures become imminent.

I cannot say that FHA has had no risk and that it has an unnecessarily selective credit attitude, because millions of houses have been insured and millions of people have obtained modest homes through FHA. True it is that a certain income group of people cannot obtain FHA insured mortgages. But the low downpayments came, in my opinion, through FHA, and provided millions of people with homes that could not have been bought without FHA.

Mr. BOYLE. Actually you are underwriting millions of people out of the mortgage picture.

Mr. COLE. Underwriting people out of the picture?

Mr. BOYLE. Yes; your underwriting requirements are so exclusive, predicated upon a philosophy of mortgage underwriting, that many of the people who should have qualified and would qualify under a reasonable approach to the picture do not have houses today.

Mr. COLE. Congressman, if you assume that FHA should underwrite on a sound economic basis, the answer is "No."

Mr. BOYLE. Did you not just tell me that since the inception of FHA you are contemplating a declining economy?

Mr. COLE. No.

Mr. BOYLE. And since its inception you have not had a declining economy?

Mr. COLE. I am not saying I am contemplating it. I am saying all of us should have in mind it might happen.

Mr. BOYLE. But the fact is since the inception of FHA it has not happened and you have tightened up the underwriting requirements to the extent you have only one-tenth of 1 percent mortgage failures.

Mr. COLE. We have a little different concept than you apparently have. We are delighted that we have only one-tenth or one-fourth of 1 percent mortgage failures.

Mr. BOYLE. I would expect that because your whole mortgage history indicates you are not in sympathy with the program and I would not expect it to flourish under your guidance.

Mr. COLE. I understand your point very well, but I may say to you the Congress has the right and the responsibility to change this if you do not like it.

Mr. BOYLE. That is true, but the Congress also has the right to expect that the individual who has been delegated the chore of administering this wonderful legislation will do everything possible to explore its possibilities and exhaust its potential.

Mr. COLE. I am performing my responsibilities under the law that Congress has passed. May I say I am the one who proposed the most liberal housing legislation that has yet been proposed, and it was adopted in 1954. A lot of my Republican colleagues wonder about that.

Mr. BOYLE. I want to commend you for that but I want now to talk to you about the situation that public housing has really no reference to FHA.

Mr. COLE. What is your question, sir?

Mr. BOYLE. I understood in your testimony a few minutes ago that you said you could not associate those two as one parcel.

Mr. COLE. No. As a city approaches the problem of helping provide good, decent housing in good neighborhoods for the people, I say the community itself and the civic leaders of the community must consider all the segments of housing. They must consider what can be done with public housing and what can be done with private housing. When I answered your question I meant to say that public housing and private housing each have an impact one upon the other and, therefore, it is wise for the community, as it is wise for the Federal Government, to recognize that one segment of this housing problem has a relationship to the other. FHA is not a part of the Public Housing Agency. If Congress wants it to be, all it has to do is pass a law.

Mr. BOYLE. We appreciate that, but since you are administering FHA, it seems to me you are just eliminating a lot of people who could and should qualify under a reasonable administration of that act. I do not want you to confuse that wonderful self-supporting FHA with the Public Housing Administration, which you have not done very much with.

How many public housing units have you constructed in 1955?

Mr. COLE. 1955? I do not know, Congressman, how many were constructed. The figure would relate to those that had been contracted for prior to 1955. Mr. Hunter reminds me approximately 29,500 were placed under contract in fiscal 1955. The number constructed, I do not know.

Mr. BOYLE. I did not ask that question.

Mr. COLE. I understand you did not ask that question.

Mr. BOYLE. Do you have any figures as to the number of housing units committed for in 1955?

Mr. COLE. Committed for in 1955?

Mr. BOYLE. Yes.

Mr. COLE. The answer to your question is the answer I gave a moment ago, 29,500 committed for in fiscal 1955.

Mr. BOYLE. You will not have more than that this year will you?

Mr. COLE. I do not know.

Mr. BOYLE. Under the regulation didn't the paperwork have to be finished by June 30?

Mr. COLE. Are we talking about construction or commitments?

Mr. BOYLE. I said commitments.

Mr. COLE. Yes, the second time. How many we commit this year is up to Congress. The administration has asked for 35,000. I do not know how many we will get. It is up to Congress.

Mr. BOYLE. How many did you commit for last year?

Mr. COLE. 1954, this is also a guess, right at 32,000.

Mr. BOYLE. How many of the 32,000 were ever put into construction?

Mr. COLE. They will all be constructed.

Mr. BOYLE. How many of the 29,000?

Mr. COLE. They will all be constructed. It takes, Congressman, some little time to put them under construction from the planning period, a year or year and a half and sometimes 2 years.

Mr. BOYLE. Do you have any public-housing projects in the District here?

Mr. COLE. In the District of Columbia?

Mr. BOYLE. Yes.

Mr. COLE. Oh, yes.

Mr. BOYLE. How many?

Mr. COLE. I do not know the exact number.

Mr. BOYLE. Do you have further need for public housing projects in the District?

Mr. COLE. That would be a matter for the District to decide.

Mr. BOYLE. Based on your own information and knowledge arrived at just by looking at some of the squalor you find on Seventh and Eighth Streets along there, would you say there is further need for public housing projects in the District?

Mr. COLE. That would be a matter for the District to decide. If you are asking me if there are people living in unsafe and indecent housing and in slums and squalor, the answer is "Yes."

Mr. LANE. The request must come from the municipality?

Mr. COLE. Yes, and authority must be from the municipality.

Mr. FORRESTER. May I make an observation?

Mr. LANE. Certainly, Mr. Forrester.

Mr. FORRESTER. As I understood our former colleague, the FHA is not a welfare organization?

Mr. COLE. That is true. It was never intended to be.

Mr. FORRESTER. I congratulate the gentleman on that statement. That was my understanding.

I did not understand the gentleman to say he was anticipating any depression. I got the idea the gentleman was looking at the matter from a business standpoint and was simply saying the FHA had really not been put to the test as yet as to what its losses would be.

Mr. COLE. That is right.

Mr. FORRESTER. And that as a businessman, from a business standpoint, the gentleman did not know what would happen if at some time in the future a depression should set in.

Mr. COLE. That is right.

Mr. FORRESTER. I want to congratulate the gentleman on that statement. I might say it might seem strange coming from a Democrat from South Georgia, which I am, but I am very much afraid the gentleman has correctly stated he is responsible for the most liberal FHA program we have.

Mr. COLE. I also understand I get criticism from the other side on that attitude.

Mr. LANE. May I say for the purpose of the record, Mr. Administrator, that as long as you have been in your present position at any time my particular office had occasion to seek out assistance or help from your office it has always been most cooperative and has always gone out of its way to help the various municipalities I have the honor of representing.

Mr. COLE. I thank the gentleman very much. I would be the last one to think we could get a unanimous opinion on housing.

Mr. BOYLE. There is nothing personal at all in what I have said. It is a matter of philosophy. I think the individual responsible for this program should not thwart the program. When you take only the cream of the mortgage business, you might as well turn that over to the private mortgage lenders because anybody can make money on these silk-stocking loans. I think your underwriting requirements are too strict. After all, you are in a risk-taking business and if you are not going to take any risk there is no reason for your existence. I would like to think that an agency that has the potential to do so much good might let a lot of other poor individuals get under the program. Mortgage failures to the extent of 2 or 3 or even 5 percent would not be too much against the general underwriting of mortgages.

Mr. COLE. So that there will be no misunderstanding, unless Congress changes the law, as long as I have the responsibility, the policy will not be to establish a 5-percent loss.

Mr. BOYLE. There is a tremendous area between a 5-percent loss and a loss of one-tenth of 1 percent. If you want to be fair and not be an undertaker and bury the program, you should have some liberality.

Mr. COLE. You seem to be arguing that if I were in the automobile insurance business you would want me to crash the automobile to collect the insurance.

Mr. BOYLE. That is not a fair analogy. You do not get much security in automobile accidents.

Mr. LANE. What relationship does this questioning have to the bill that is before us this morning?

Mr. COLE. I would like to return to it if I may.

Mr. LANE. I would like to get back to it so that we can move on to the other witnesses.

Mr. COLE. Through the Public Housing Administration the Government does subsidize public housing units. I think it would be unwise for us not to look at the issue squarely. I want to look at it squarely, if I may.

In some areas of the country public housing units now are segregated; in other sections public housing units are integrated; in some few areas public housing units are integrated in the South.

Mr. BRODEN. Would it be possible for you to supply the committee with the results of your studies on that?

Mr. COLE. Yes.

Mr. LANE. What was your question, Mr. Counsel?

Mr. BRODEN. The Administrator has agreed to supply the committee with the results of studies that have been made on integrated and segregated public housing units.

Mr. LANE. That information will be made a part of the record at this point when supplied.

(The information requested is as follows:)

RACIAL OCCUPANCY PATTERN IN LOW-RENT HOUSING PROJECTS

The following table shows the types of occupancy of the various projects as of March 31, 1955:

Racial occupancy pattern:	Number of projects
Completely integrated	272
Segregated within building	6
Segregated by building	32
Completely segregated by building site	75
No pattern	53
Completely segregated	580
All white (other than Latin-American)	818
All white (Latin-American)	14
Project in transition	9
No report	19
Total	1,878

The integrated projects are all in the North and most of them in States which have State laws forbidding segregation.

The above information with respect to each project is indicated in the Low-Rent Management Directory of May 31, 1955, published by the Public Housing Administration of the Housing and Home Finance Agency. Column 4 in the directory gives this information. The codes used in this column are explained at the bottom of the first page under explanatory notes.

Mr. COLE. There are instances in the North where we have segregated and nonsegregated public housing units in a single city. We have some cities where there can be integration with no trouble at all. We have some cities where they do not lay the groundwork carefully and when Negroes are placed in a public housing project there is a terrific riot. I am pointing this out because I think we must face these issues clearly and without emotion, if possible.

I do not believe the Federal tax dollar has any color to it. I do not think the people who pay money into the Treasury—the Indian, Jew, Catholic, Protestant, white man, or dark man—I do not think his money has any color, and I do not think the Federal Government should do anything to discriminate against people by reason of the fact they do not agree with the party in power, or by reason of the

fact they have a different color, or by reason of the fact they do not like their neighbor.

So it would seem that the tax dollar which the Federal Government contributes to public housing should be treated in a nondiscriminatory fashion. Up to now the Public Housing Administration has taken the position that public housing units should be provided on a nondiscriminatory and equal basis. This sometimes means a separate but equal basis. This has been the policy of the Government for many, many years in the past, and it is the policy of the Government today. This proposed law would change that, I think.

I am not here to argue with the members of this distinguished committee as to whether the attitude of the Public Housing Administration is correct today or not. One of the reasons why this is the policy today is because Congress has not changed it. In 1949 Congress had the opportunity to change it. Senators Bricker and Cain introduced an amendment which would have prevented segregation in public housing in April 1949 which was defeated 49 to 39. Representative Marcantonio on the House side introduced a similar amendment preventing discrimination and it was defeated 173 to 122. This does not mean Congress should fail to consider whether a new law should be proposed and enacted. The point is it has not been done. Congress can tell us to change our policy.

Secondly, I think before Congress enters into its final consideration of this measure we must consider another thing. Will such an amendment or such a provision, either by the executive branch, or by the Congress, jeopardize the chances of the beneficiaries of public housing? This is a question I feel I must face as frankly as I can and, if I may humbly suggest, I think this committee should ask the question of witnesses, and then come to a determination.

There are areas in this country that are not ready to accept nonsegregated housing. Will it jeopardize the beneficiaries of public housing in those areas where the majority of people occupying public housing would have difficulty getting the benefit of it?

The second question is whether or not it is constitutional. The lawyers argue—and I used to practice law—on both sides of the question. I do not know what the Supreme Court will decide. There was a case that came up from the State of California on a writ of certiorari and the writ was denied. Some lawyers argue the Supreme Court either will or has decided the question of public housing segregation or nonsegregation. The issue has not been squarely presented. It seems to me the question is raised whether Congress should delay legislation until the decision is made by the Supreme Court, because any legislation it might pass will still have to be passed upon by the Supreme Court.

This does not mean Congress or myself should fail to consider whether or not the Negro is being discriminated against in the public housing field.

Under the insured mortgage program I think these questions must be considered. As the committee is well aware, I took the liberty of disagreeing with my friend on FHA. I think FHA has provided, through its insured program, modest houses for millions of people, and these millions of people are of all colors, races, creeds, and economic conditions.

The question I am considering, and that I think in my judgment the Congress must consider, is whether or not the cancellation of insurance under circumstances over which the lender may have no control, would create an uncertainty sufficient to cause a halt in the financing. This is a technical question. This is assuming that this Congress and all of us want to meet this problem fairly and squarely, as I am sure we do.

As I understand the legislation which is proposed, it provides that discrimination shall include segregation or separation. Administratively and legally I find some difficulty, and many others find some difficulty, in determining how this would be carried out.

Let me give you a little illustration of a couple of ladies discussing a situation that occurred in a neighborhood. One of the ladies was suggesting they were going to be required to move from the neighborhood, because they were the only Protestants in the neighborhood; the rest were Catholics. This one family was a Protestant family, and the Protestant family did not want their children to grow up being Catholics, and they were concerned about the fact that the Catholic children were discussing the Catholic religion with their children. I point this out for a reason. It illustrates the problem. What is segregation, or what is separation?

I happen to live in an apartment where no Negroes live, and there are many apartments in Washington where no white people live. Does this mean, then, that in the future insurance on the apartment in which I live or in a development in which I live can be canceled if no Negroes live there? Will that be per se evidence of discrimination? I do not know, but I do believe the committee should inquire of people how this would work.

Does it mean, then, that the lender would find himself subject to a lot of different shades and variations of opinion in Washington, Chicago, San Francisco, in the South, in the North, and can he with safety lend the money of his savers when he feels the Government might cancel the insurance on which he relies?

The FHA insurance is based upon the integrity of the contract with the Government, and in my opinion, we must be careful not to destroy that integrity. The FHA has, since the Supreme Court decision, set up rules and regulations whereby the FHA will not grant insurance if there is a restrictive covenant of record by reason of race, creed, or color. They go further and make the mortgagor agree that during the life of the policy they will not permit that to occur. They go further and make the lender agree that during the life of the policy that will not occur. They do not cancel the insurance if that is the case. The sanction of FHA is the right to foreclose.

How much farther should the Federal Housing Administration go? That is the only question. It is not a question of policy. The policy is agreed upon. The question is, How far shall you go?

Finally, there is the problem of prohibiting Government loans or insurance where there is discrimination contrary to the policy set out in the proposed legislation. The bill provides that before a person borrows money or is insured that he be required to sign a statement that he has read section 6 and understands it and will carry it out. The question is raised whether that is a practical solution of the situation that is before the committee. Some people have doubt that it can be enforced and feel that the difficulties involved in enforcing it are such

that you would in the end cause more difficulty in obtaining the objective that is desired if this rather vague and uncertain method of achieving it is placed in the legislation.

Mr. Chairman, I believe that is about all I have to say for the present, and, of course, I shall be delighted to answer questions such as I can on this problem.

Mr. LANE. Mr. Administrator, you stated that in some of your projects you have segregation and in some you have integration, but, all in all, have you had any real trouble by reason of any discrimination in any of these projects?

Mr. COLE. You mean trouble by reason of nondiscrimination?

Mr. LANE. Yes.

Mr. COLE. Yes. As I said in my statement, the interesting thing is that where the groundwork has been laid the trouble has been almost nil. May I illustrate that by one very important case of this kind, and I think it illustrates the situation.

In one of our great cities in the United States there are public-housing developments that are integrated, and there is no trouble; everybody gets along fine in the community, and nobody objects. In the same city there are segregated housing developments, and nobody complains particularly.

In one housing development that was all white a nonwhite woman applied for admission and was granted admission. I have the idea that it was not known when she was granted admission that she was nonwhite. When the family moved in they were obviously nonwhite, there had been no groundwork laid, no effort made to advise the people in the neighborhood and to find out how it could be done. The result was a terrible riot in that city. This riot lasted for weeks and weeks and weeks with hundreds of policemen trying to quell it.

I think what I am saying is that on the basis of what I know and what I see, a good deal can and will be done to help people get housing regardless of their race or religion, but I think before Congress or the administration moves too precipitously we should know where we are going. Even the Supreme Court, in the school cases, took a long time and are still taking a long time to condition the people to help them help themselves in these cases.

Mr. LANE. In other words, you are trying to help all the people so far as your program is concerned?

Mr. COLE. Yes; and I am not satisfied with the situation as it is. I do not want to leave the impression that I am.

Mr. FORRESTER. Mr. Chairman, may I ask a question?

Mr. LANE. Certainly, Congressman Forrester.

Mr. FORRESTER. I would like to ask the witness if he is in a position to comment on an article that appeared in a Washington paper either last year or the year before relative to an interracial housing project located in the District of Columbia. As I recall it was on Rhode Island Avenue and a loan was granted to the people who built that project.

Mr. COLE. That was FHA.

Mr. FORRESTER. It was insured by the New York Life Insurance Co.?

Mr. COLE. Yes, sir.

Mr. FORRESTER. It developed that neither the whites nor the colored would rent apartments in that apartment house and the New York

Life Insurance Co. called upon the FHA to make good their guaranty. Does the gentleman know if that is true or not true?

Mr. COLE. Mr. Forrester, I have some information about it. I do not have all the information about it. The FHA could give you that data. I do know that there was such a project. I do know that difficulty arose in obtaining tenants. I do know there is a difference of opinion concerning why this was the situation, and I do know it did get into financial difficulties. I am not hedging on the answer: I just do not know all the ramifications about it. I think there are people in this room who have the story on one side, and I think we can get the record of FHA.

Mr. FORRESTER. The gentleman does not have to assure me that he is not hedging. I have known him when he was a Member of Congress, and I know he does not hedge. I know the gentleman could not possibly know all the facts about all these cases that come up. But I wonder if the gentleman knows that the New York Life Insurance Co. did call upon FHA to make good on their guaranty and whether the Government did make good on the guaranty?

Mr. COLE. I do not know. If the Congressman likes, we will furnish it for the record.

Mr. LANE. Yes, we will be glad to have it in the record at this point.

Mr. COLE. I can have FHA furnish that information.

(The following information was furnished for the record.)

FACTS CONCERNING THE RHODE ISLAND PLAZA HOUSING DEVELOPMENT IN WASHINGTON, D. C.

The original FHA commitment for the project was issued on February 28, 1950, and construction was begun in December of that year. The project was completed and FHA approved the rent schedule and gave its occupancy permission on March 20, 1952. The mortgage first went into default in September and October of 1952, again in January and February of 1953, and finally in April and May of 1954. The last default was not corrected and, as a result, the New York Life Insurance Co. (the mortgagee), assigned the mortgage to the Federal Housing Commissioner in exchange for debentures on July 22, 1954.

Since completion of construction, sufficient occupancy to meet operating expense and debt service has never been obtained. As of July 13, 1955, there were 65 vacancies out of a total of 409 available rental units. In addition to the delinquency under the mortgage, which at present amounts to $134,833.13, covering interest and principal, the builder corporation has never been able to make deposits to a reserve fund for replacements required in multifamily projects. The reserve requirement in this case is approximately $2,500 per month.

It does not appear that the project went into default because it was made available for "open occupancy." Through the early history of the project, there was considerable confusion as to whether or not it would be open to Negroes. Although the FHA commitment was on the basis of an agreement by the builder corporation that the project would be available to occupancy by Negro families, the sponsors had no definite promotion program to bring the availability of the housing to the attention of nonwhite people in the income range that could afford such rentals. Furthermore, no on-site rental office was provided; rather, rentals were made by writing or visiting the rental office of the sponsors which was located in Arlington, Va. On the basis of the fact that a comparatively small number of applications by Negroes had been received prior to tenancy, the builder corporation requested that the FHA waive the requirement regarding Negro occupancy and permit the project to be filled with white families. The builder rejected the suggestion that the project be opened to occupancy by white as well as Negro families. The FHA indicated that the builder was expected to hold to the original agreement to admit eligible Negro families. It was only then that the builder corporation took specific promo-

tional and other steps to market the project among Negroes. While this project was begun at a time when almost any rental space was quickly taken up by the public, such factors as these were definitely harmful in getting full occupancy.

There were also two other factors that hurt the project: First, the sponsor in its original plan had made no effort to determine the number of applicants desiring this type of housing with sufficient income to afford it, and there was little relationship between the needs of prospective tenants, and the distribution of units in the project. For example, one-bedroom units never had anywhere near full occupancy. Second, the outlawing of racial restrictive covenants by the Supreme Court in 1948 was beginning to take effect at the very time that Rhode Island Plaza came on the market. Thousands of units of housing for sale to Negroes became available in hitherto restricted areas in Washington, D. C. Naturally these sale units were absorbed by a number of Negro families who otherwise in their search for living accommodations might have been renters in Rhode Island Plaza.

Mr. LANE. Any further questions?

Mr. BRODEN. Mr. Administrator, in almost all of the programs that you are charged with administering, the local communities themselves, in effect, decide whether there shall or shall not be segregated housing?

Mr. COLE. The answer is, not "in effect"; the local communities actually do decide.

Mr. BRODEN. And there is nothing in any of the laws you are charged with administering, no provision, that puts on you the burden of determining whether there shall or shall not be segregation?

Mr. COLE. Counsel advises me that is correct, and I think it is. I do not mean I doubt the advice of counsel. I think that is correct.

Mr. BRODEN. The vast bulk of the work of your Agency in financial terms of guaranty would involve the insured mortgage program?

Mr. COLE. Of FHA; yes. It is difficult to relate one to the other when you say one is greater than the other.

Mr. BRODEN. In terms of units?

Mr. COLE. Yes, there is no question about that.

Mr. BRODEN. And the banks and mortgage companies are the ones who decide whether or not the loan shall or shall not be made?

Mr. COLE. That is right.

Mr. BRODEN. And the realtors and builders decide whether or not they shall be sold?

Mr. COLE. Yes.

Mr. BRODEN. And there is nothing in the law that gives you any authority to determine whether or not the realtors and builders will follow the policy of nondiscrimination?

Mr. COLE. No; except that under the broad constitutional authority of the executive branch I think we have the responsibility to see there is no discrimination. I think counsel is aware that when I mentioned Congress failed to enact the amendment in regard to FHA, I am not putting a burden on Congress; I am saying that is the situation.

Mr. BRODEN. Is it necessary for Congress to enact some legislation if the present policy is to be changed?

Mr. COLE. Yes; I think so. I think we have a responsibility in the executive branch. I am not going to deviate from that. We have the responsibility in the executive branch to do everything we can within the present law to prevent discrimination. If you are talking about segregation in public housing?

Mr. BRODEN. No.

Mr. COLE. Generally speaking?

Mr. BRODEN. Generally speaking.

Mr. COLE. I am afraid I cannot answer that question. I would have to think about it. I would say I am inclined to believe you are correct but it may be this whole business of the Executive trying to put it on the Congress or vice versa——

Mr. BOYLE. Will the gentleman yield?

Mr. COLE. Yes.

Mr. BOYLE. You do not feel you have to ask Congress about changing this policy as it refers to the recent Supreme Court decision?

Mr. COLE. What recent Supreme Court decision?

Mr. BOYLE. The school case.

Mr. COLE. We have nothing to do with that.

Mr. BOYLE. As regards the policy of your office in regard to segregation, do not need anything more than you have under the present law to say you will not tolerate segregation?

Mr. COLE. We do not tolerate segregation in FHA. A mortgage on property where there is a restrictive covenant of record against sale to anyone because of race, creed, or color will not be insured by FHA.

Mr. BOYLE. You do not tolerate segregation in FHA?

Mr. COLE. No.

Mr. BOYLE. And that is your policy?

Mr. COLE. Yes.

Mr. BOYLE. You do not need a law from Congress?

Mr. COLE. I think you are talking about a different thing than counsel here.

Mr. BRODEN. My point is this statute would provide certain sanctions for the invalidating of loans.

Mr. COLE. We certainly would not do that if that is your question; absolutely not. We cannot.

Mr. BRODEN. If it were determined that the realtors and builders were following a policy of segregation, this statute upon such finding would invalidate the loan?

Mr. COLE. Right.

Mr. BRODEN. And you have indicated that would be unwise or at least the question should be studied?

Mr. COLE. That is right. My opinion is that the FHA could not impose the type of a sanction that counsel mentioned.

Mr. BRODEN. Could there be any sanction imposed on the loan if the finding of segregation were made today under existing law?

Mr. COLE. Our judgment is there could not.

Mr. BRODEN. Could not be under existing law. You do have a sanction in public housing projects, I believe, a sanction of limitation on the foreclosure rights?

Mr. COLE. Yes.

Mr. BRODEN. Will you explain that, please?

Mr. COLE. That was based upon a Supreme Court decision. After the decision a regulation was adopted by FHA providing that no insurance would be granted upon a house or land which had a restrictive covenant filed of record and that if this were done then the insurance would not be granted, the contract would not be entered into. This was not in violation of a contract.

Mr. BRODEN. Was that pursuant to the statute or pursuant to the decision of the Supreme Court?

Mr. COLE. I think it was pursuant to the decision of the Supreme Court.

Mr. BRODEN. And regulations of the agency?

Mr. COLE. It was, which would indicate they do have some powers beyond what the Congress specifically sets out. Certainly in my judgment we cannot vitiate a contract and would not do so unless Congress set out the terms under which it could be done.

Mr. BRODEN. Would it be the Administrator's impression that a finding of discrimination would require more administrative work than a restrictive covenant in a deed?

Mr. COLE. There is no question about that.

Mr. BRODEN. Is it not true as to public housing that it is the local public housing authorities who determine whether or not the housing shall be segregated, integrated, or otherwise?

Mr. COLE. That is true.

Mr. BRODEN. Do you think under existing law your agency could promulgate—assuming you thought it was wise—a policy either of segregation or integration?

Mr. COLE. I do not know because the legislative history would indicate the agency cannot because Congress has turned it down both in the House and in the Senate. However, the law has yet to be determined constitutionalwise by the Supreme Court. After the Supreme Court makes its decision we are bound by that decision.

Mr. BRODEN. If the Supreme Court says it is a violation of the 14th amendment you have no doubt the administration could promulgate such a regulation?

Mr. COLE. That is right.

Mr. BRODEN. Short of that——

Mr. COLE. Short of that I am in doubt.

I want to make it very clear this does not mean that we are ignoring this problem or not working on it.

Mr. BRODEN. But under existing law you are required to work within the framework of the local housing agency?

Mr. COLE. Yes.

Mr. BOYLE. I would like to ask whether or not there has been any change in the housing policy as it refers to segregation since the pronouncement of the Supreme Court on the school question?

Mr. COLE. On the school question?

Mr. BOYLE. Yes.

Mr. COLE. I would say not. There has been a great deal of study and consideration of what the school case decision means in the housing field and this, I think, is our responsibility.

Mr. BOYLE. So in the absence of any positive law that we enact you will continue as you have been in the past—through no fault of yours, probably—to practice segregation?

Mr. COLE. Not necessarily. In answer to counsel's question I said that I am doubtful. I think we must examine the entire question. We have not solved all these questions to our satisfaction.

Mr. FORRESTER. Mr. Administrator, let me ask you this question: As I understand it—and I may have misunderstood you—as I understood it, if there were an affirmative showing that discrimination was practiced in one of these units, then the loan would be invalidated?

Mr. COLE. Under this proposed legislation.

Mr. FORRESTER. If that loan is invalidated, what happens next?

Mr. COLE. The loan could be declared immediately due and payable. The lender could foreclose. The insurance could be declared at an end.

Mr. BOYLE. That is the lender could foreclose if he wants to; is it not? He might say he has ample security and does not care about the insurance.

Mr. COLE. That is right.

Mr. BRODEN. If the mortgagee continued making his payments nothing would happen.

Mr. COLE. No. The point I was making is that in the beginning the lender is taking into consideration he has an insured loan. The insurance is a valid binding contract the Government stands behind. All I am saying is that before you pass this legislation you should assure yourselves, if the contract were made subject to possible cancellation, what impact it would have on the mortgage market.

Mr. BRODEN. Have you any comment on the civil or criminal penalties?

Mr. COLE. If Congress decides it is a violation of law I would have no objection to that. If I violate a law I should be punished. I was thinking of how it would affect the ability of a man to get a loan

Mr. LANE. May I say to the Administrator before you close your testimony, this committee is more than glad that you have come here this morning representing the only agency of Government that has been kind enough to respond to our requests to come to the hearings. The fact that the Administrator of the Housing and Home Finance Agency came here to give his views is appreciated by this committee, especially in view of the fact there is evidently lack of interest on the part of other agencies and departments of Government to submit to us some suggestions or recommendations to help this committee. I thank the Administrator for his appearance.

Mr. COLE. Thank you, Mr. Chairman.

Mr. FORRESTER. Mr. Chairman, inasmuch as a quorum is present and I have some people waiting for me at my office, would the Chair have any objection to excusing me?

Mr. LANE. The gentleman may be excused.

We will now hear from Congressman Davidson of New York on H. R. 3418, H. R. 3419, H. R. 3420, H. R. 3421, H. R. 3422, H. R. 3423, and H. R. 3575.

Mr. LANE. You may proceed, Congressman Davidson.

STATEMENT OF HON. IRWIN D. DAVIDSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. DAVIDSON. Mr. Chairman and members of the committee, it gives me a great deal of pleasure to appear here today concerning these vital civil rights bills. I thank you for this opportunity.

As you know there are a great many measures pending which deal with this question. Many are identical and serve as evidence of the great interest in and need for the legislation proposed. There seems to be several basic groups into which these bills fall.

There are two groups of omnibus bills: The first of these, introduced by Congressmen Powell, Addonizio, Rodino, and Barratt O'Hara contain much that the other proposals embody, but adds the

so-called FEPC provisions. This I wholeheartedly support, as I do the other measures designed to insure equality of opportunity for all.

The second group of omnibus bills includes my own, H. R. 3423. These also include much that a number of the other bills propose and provide for the prohibition of discrimination in interstate transportation. It seems to me that in this area of Federal jurisdiction the enactment of such basic legislation is long overdue. The public shame of forcing certain American citizens to ride in designated areas of public conveyances and to accept inferior accommodations is abhorrent to every concept of freedom we cherish and degrades not only the person discriminated against, but the entire Nation for allowing the practice to survive. The concept of segregation remains with us in defiance of the Supreme Court and the Constitution.

The report of the Interstate Commerce Commission concerning this bill contains the very clear statement that since the present law (sec. 3 (1) Interstate Commerce Act) "neither requires nor prohibits segregation of the races" the Commission "has limited its inquiry to the question whether equal accommodations and facilities are provided for members of the two races." Discrimination is inherent in that statement. The Supreme Court ruled in *Brown* v. *Board of Education* (74 Sup. Ct. 686), "Separate * * * facilities are inherently unequal." The Court, to its everlasting credit has discarded the ancient mockery of freedom called "separate but equal." Shall we do less? I am told that we received the best international press we have had since the Marshall plan, as a result of the Supreme Court decision. If were were to act now to eliminate this shameful condition on the eve of the Four Power Conference at Geneva, it would, I am sure, be most helpful to the President and to the cause of freedom which we so earnestly espouse.

The Interstate Commerce Commission declined to openly take a position on this proposal in view of certain cases now pending before it, where the precise question at issue is involved. It is my understanding that the two cases which are cited have been pending for some time. In view of this reluctance or hesitancy on the part of the Commission and the emphatic decision of the Supreme Court, it would seem all the more urgent for Congress to act now and prevent any further delay in eliminating finally this rejected doctrine.

The next group of bills generally deal with a form of murder sometimes called lynching. That such legislation outlawing mob violence and granting the injured the opportunity to recover damages has not been previously enacted is most surprising to me.

Similarly, the next group of bills, relating to activities which can be characterized as Klu Klux Klan marauding, would certainly appear as appropriate in reaffirmance of the constitutional guaranties upon which our society is based. Lest it be thought that such activity no longer plagues us, I have here a small clipping from a magazine published this week reporting such an incident near Chicago where there was gunfire.

The fourth group of bills would authorize the creation of a Commission on Civil Rights in the executive branch of the Government. We are all most conscious of the war being waged around the world for the minds and hearts of men. The Communists use every trick in the book to picture themselves as the champions of the downtrodden. We spend millions of dollars annually throughout the world to combat

this falsehood and to promote the true concept of freedom and democracy which is our heritage. We delude ourselves if we think that excessive security safeguards can prevent Communist propaganda from influencing minds which are constantly subjected to injustice and intolerance. The Supreme Court pointed this out in the Brown case, when they held that the impact of segregation is greater when it has the sanction of the law.

The next group of bills is intended to strengthen the law relating to the right of qualified citizens to vote freely for candidates of their own choice. Intimidation of voters and discrimination against certain otherwise eligible citizens is the mark of dictatorship. The violation of these rights in this free Nation should be made the subject of stringent penalties, both civil and criminal, as these bills propose.

The next to last group provides for the reorganization of the Department of Justice by the creation of a new Civil Rights Division. This Division coupled with an augmented FBI, as these bills propose, would do much for the preservation and enforcement of the civil rights secured by the Constitution and laws of the United States.

Finally, H. R. 3420, and the other bills in the last group, would prohibit attempts to (1) hold another in peonage; (2) entice another into slavery; and (3) sell another into involuntary servitude. The prohibition against what is commonly called shanghai attempts is extended to cover all modes of transportation rather than vessels only.

It is significant to note that in connection with this proposal the Department of Justice has reported that it would have no objection to its enactment. These bills make criminal the various acts now merely proscribed by the law. Penalties imposing fines of not more than $5,000 or imprisonment for not more than 5 years, or both, are provided for all such violations. I do not believe there can be any objection whatever to the enactment of these amendments.

There are other proposals, I know, which merit your consideration. I hope that I have not taken too much of your valuable time or delayed any other Members who wish to testify today. My own interest in this legislation and the urgent need for its enactment has prompted me to make this appeal to you. I earnestly hope you will act favorably on these bills.

Thank you.

Mr. LANE. Are there any questions of Mr. Davidson?

Mr. BURDICK. I want to compliment Judge Davidson on his very fine statement.

Mr. LANE. I also want to thank you for your very well prepared statement and analysis of the various bills that are pending before the committee. You have been very helpful to the committee in giving us a very short statement with respect to the various bills, and I wish to express to you our appreciation.

Mr. DAVIDSON. Thank you.

Mr. LANE. And we appreciate very much your coming before the committee this morning and expressing your views on this legislation.

Mr. DAVIDSON. Thank you.

Mr. LANE. Would you mind telling us whether you know of many lynch cases? We have had the matter brought to our attention from time to time before the Judiciary Committee, and this committee has brought it to the attention of the public through the years. I think the

subcommittee and the full committee has done much to allay this malicious and vicious practice, by concentrating the attention of the people of the country on it.

Mr. DAVIDSON. Yes, In answer to your question, Mr. Chairman, I am informed of only one, which was brought to my attention by Congressman Roosevelt; I think that took place in California. He discussed it with me and told me about it. That is one that I have heard of in recent times.

However, may I say this: That personally I am greatly impressed with the importance of a governmental pronunciamento in these affairs. I think that the problem that we are here grappling with has much to do with the attitude posed by Congress and the Government; that is, a very, very potent sector of education to our people. Just as the Nazi Nuremberg laws of September 1935 poisoned peoples' minds into thinking what they were doing was perhaps based on some sanction and some right, I think that any governmental action which condemns this sort of thing is a part of our great educational processes, and it is not always, in my humble judgment, necessary that there be a specific matter which can be pointed to as the reason for a law. I think that these laws are in consonance with our principles of American standards, of our Bill of Rights. Therefore, I feel that it would be a great help to have, as I said before, a governmental declaration condemning this sort of action.

Mr. LANE. May I thank you, Congressman Davidson, again for your statement.

Mr. DAVIDSON. Thank you.

STATEMENT OF HON. BARRATT O'HARA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. LANE. The next witness is Hon. Barratt O'Hara. Congressman O'Hara is the author of H. R. 3668.

May I say, Congressman O'Hara, that we are always happy to have you.

He is one of the most active and energetic Members of Congress, and it is a great privilege to have you come before our committee, and we will be pleased to hear you, Congressman.

Mr. O'HARA. Thank you, Mr. Chairman.

Mr. Chairman, and gentlemen of the committee, I am Barratt O'Hara, representing the Second Congressional District of Illinois.

There is not much that I can say to this committee. I wished to be here personally to show my interest and my concern. I am concerned for my country. I am concerned that very shortly there will be a conference which we hope may bring a beginning of the signs of permanent peace. And I would feel more heartened if our President were going to that conference from a land in which there was no discrimination of any sort.

Again I must be a little emotional because I feel so deeply. I feel that discrimination of any sort destroy individuals and destroys the State. The little child that grows up with a prejudice that takes the form of discrimination has a growth within him and it expands with the brain. It is something that narrows his life so that he cannot enjoy the full contentment that the individual should enjoy. It is poison and it grows and it destroys.

I think that we must start a positive program, a legislative program to wipe out discrimination in our country.

There are a number of bills that I am the sponsor of.

They are not my bills; I introduced them as sponsor.

The first is in regard to poll tax. I served in the 81st Congress when John Rankin of Mississippi was here, and I remember we had the poll-tax legislation up at that time and John was against the legislation and I was for it. And I looked into the figures and 1 person in John Rankin's district in Mississippi was the equivalent of 12 voters in my district. And I made up a list. Here was the president of a university, the superintendent of schools; here was Dr. Urey, a great scientist, and others, and 12 of those people were the equivalent of 1 voted down in Mississippi, where people did not vote, because of the poll tax.

Now, we have representative government, and is it truly a representative government when the voice of 12 of my constituents is the equivalent of the voice of 1 in a district where a voter is denied the right to vote because of the poll tax?

So very strongly I urge, and I hope the 84th Congress will do something, if not in this session, then in the second session, to vote out poll-tax legislation which should have been passed long ago.

And I would like to remark—and I think it is a sort of pattern of life—that John Rankin is not in Congress now because of the poll tax. In the reapportionment of his State it lost a Member which would not have been lost, perhaps, if they had not kept down the vote. But the very thing that he was supporting proved to be the lasso that yanked him out of Congress.

Then the next, the District of Columbia, this is the shrine that our schoolchildren come to, that our visitors come to, and I am always impressed when I look in their faces and then I see them come up from my section, and I see signs of segregation here that should not be, and there should not be any place where we have anything of that character.

And I think this is a very good bill.

Here is another one of which I am sponsor, H. R. 3691, and there are more sponsors on that.

And it creates a committee against this discrimination here in the District and I think that this bill should be passed, and it should be passed promptly.

Then the matter of fair employment: When you are denying employment to people because of discrimination, their color or their religion or for some other reason, you are denying them the right to live, because the man has to work for his support, and most men and women do have to work.

Now, when they say here we are not going to allow you to work because you are black, or because of your religion, or because of some other reason, then we are denying that person the opportunity to live. And I cannot see how anybody could object to legislation of that sort.

I do not know of anybody in our country, of any people who have not at one time or another felt the sting of discrimination. I have been told the story that when the Irish came, when my people came,

that there was discrimination; they found it hard to get employment. They were discriminated against. Of course, that was a challenge to them and they worked out of it. And I have seen other groups in my lifetime. I remember when the Polish group came and when the Lithuanians came and when the Italians, and many others, came; they all found discrimination.

Now, we have all felt it, and we all know it—and I cannot see why now we should not step out as Congress and take a positive step, and say that which we have all suffered from, and that which, if permitted to continue, is going to destroy our Nation, that we are going to stop it. That we are going to enact laws and put teeth in them and stand back of the enforcement of those laws.

Gentlemen, I appreciate tremendously the invitation to be here. I have the highest respect for this great committee. I have been so charmed with the personality of the members of this committee, and to me it was an opportunity and an honor to be invited to give, not the benefit of my thinking on this bill, but to let you know how deeply I feel the necessity of what we are trying to do in this positive approach.

And I thank you all, Mr. Chairman.

Mr. LANE. May I say right there, Congressman O'Hara, that we, on this committee, appreciate having you come before us. We know what you have done since you became a Member of Congress and we are not unmindful of the fine work which you did before you came to Congress; and we appreciate very much your bringing to this committee your own views and we appreciate your fine statement.

Mr. O'HARA. Thank you very much.

I might say, Mr. Chairman, that I made a promise to myself when I came down here—I was not young when I came—that any time I had a chance to vote against discrimination, regardless of what people might think about my vote, it would be cast always against discrimination.

Mr. LANE. And, of course, it always has been.

Are there any questions of Mr. O'Hara?

Mr. BOYLE. May I further add one thing: I have known Mr. Barratt O'Hara, who comes from my great State, and out there he is recognized as a truly great Congressman and he is recognized as having a deep understanding, not only of civil rights but, likewise, of civic responsibility and civic duties. I know that as a Congressman he is highly respected and honored because of his fine philosophy and the contribution he has made.

Mr. O'HARA. Thank you.

Mr. BURDICK. Just a moment, Mr. O'Hara.

These two Democratic members have congratulated you.

Mr. O'HARA. I remember in the 81st Congress, when we needed a Republican to vote with us, Mr. Burdick voted.

Mr. BURDICK. When these Democratic gentlemen congratulated you, it did not mean too much, but I want to congratulate you for your statement as a Republican.

Mr. O'HARA. Thank you.

Mr. LANE. Thank you very much, Mr. O'Hara.

Mr. O'HARA. Thank you.

STATEMENT OF HON. CHARLES A. VANIK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. LANE. The next witness we have the privilege of hearing is Congressman Vanik, of Ohio. May I say, Congressman, that we are very happy to have you here and will be pleased to have you give us the benefit of your views on this legislation?

Mr. VANIK. Thank you, Mr. Chairman and members of the committee.

I want to say at the outset that I will be very brief. I realize the hour is late and that the House has been called into session.

I just want to say that I join in the fine remarks that were made by Barratt O'Hara, who preceded me, in support of this legislation, which would provide for the removal of discrimination in interstate commerce and in interstate employment, and in the manifestation of any act of discrimination.

I was chagrined to find that there were not more Federal officials testifying in support of this legislation. As a member of the Banking and Currency Committee, I was, of course, pleased to know that Mr. Cole, of the Housing Agency, took time out to testify.

In the Banking Committee, we are dealing right now with the Export-Import Bank and the International Finance Agency, and the thought passed through my mind that the most vital, the most needed, the most exportable American product we can develop is that of tolerance, the development of respect for human dignity, and I think we cannot produce any of that for export until we have taken care of the needs at home.

I think there is a tremendous domestic need for the development of tolerance and for the development of equality and the development of respect of human dignity that would be brought about by the enactment of this legislation, which is one of the most needed phases of legislation in America.

I want to say that I am heartily in support of this legislation, like Congressman O'Hara's bill, H. R. 3689, 3697, 3691, and 3690, and a great many other similar bills like the ones that have been introduced and are being considered by the committee.

Mr. LANE. Congressman Vanik, we were pleased to have you come before us and express your interest which you have manifested in this legislation.

Mr. VANIK. Thank you very much.

Mr. LANE. There are no other witnesses scheduled for this morning, and the committee will stand adjourned, and we will have further hearings on civil-rights bill July 27, at which time we will hear from the various organizations.

(Whereupon, at 11:58 a. m., the subcommittee adjourned to meet and take further testimony on civil-rights bills, July 27, 1955.)

CIVIL RIGHTS

WEDNESDAY, JULY 27, 1955

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 2 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 10 a. m., in room 346, House Office Building, the Honorable Thomas J. Lane (chairman of the subcommittee) presiding.

Mr. LANE. The committee will come to order.

We shall take up at this time the continued hearings on the civil rights bills which were scheduled for consideration this morning at 10 o'clock a. m.

The committee has before it today a number of witnesses, and in view of the fact that Judge Rose is anxious to take a plane back to his home city, although he is listed as No. 5 on our witness list, I think out of courtesy to him we will ask the first witness this morning to be Judge David Rose of the Anti-Defamation League of B'nai B'rith of Boston, Mass.

Of course, I am more than happy to have Judge Rose here presenting his case before this subcommittee of the Committee on the Judiciary.

I had the honor and great privilege of serving in the Massachusetts Legislature with Judge Rose and may I say to the committee that he was one of the most outstanding and energetic men I have ever served with in any legislative body.

We are pleased and happy to have Judge Rose here as the first witness this morning in these hearings. You are more than welcome to present testimony here before the Committee on the Judiciary, and we are happy to have you.

STATEMENT OF JUDGE DAVID A. ROSE, BOSTON, MASS., CHAIRMAN, NATIONAL CIVIL RIGHTS COMMITTEE, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH; ACCOMPANIED BY HERMAN EDELSBERG, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH, WASHINGTON, D. C.

Judge ROSE. Mr. Chairman, I am deeply pleased by your gracious remarks, and I was going to say that I, too, am delighted to speak to a committee chaired by a former colleague of mine in the Legislature of Massachusetts.

Mr. Chairman and gentlemen, I have the honor to present the following statement in behalf of the Anti-Defamation League of B'nai

B'rith in my capacity as chairman of its national civil-rights committee. B'nai B'rith, founded in 1843, is the oldest and largest civic organization of American Jews. It has a membership of over 300,000 men and women. The Anti-Defamation League was organized in 1913 by B'nai B'rith to counteract racial and religious prejudice in the United States. The program of the league is designed to achieve the following objectives: To eliminate and counteract defamation and discrimination against the various racial, religious, and ethnic groups which comprise our American people; to advance good will and mutual understanding among American groups; and to encourage and translate into greater effectiveness the ideals of American democracy.

It is our feeling that our American system can tolerate no restrictions upon the individual which depend upon irrelevant factors such as his race, his color, his religion, or the social position to which he is born. We believe that the well-being and security of all racial and religious groups in America depend upon the preservation of our basic constitutional guaranties.

We have long recognized that any infringement of the civil rights of any group is a threat to the security of all our American people.

We have come before your committee to add our voice again to the many religious and civic groups which for the past 10 years or more have been petitioning Congress to enact civil-rights legislation. We need not at this time undertake a detailed analysis of the bills before you and their merits. This has been done comprehensively and repeatedly in the past, and at these hearings your congressional colleagues have spoken eloquently in support of their bills. Moreover, we have noted that over the years open opposition to the objectives of civil-rights legislation has virtually disappeared. At least on the surface nobody challenges the goal of equality of opportunity and the elimination of discrimination. But, of course, stubborn, and thus far successful, opposition to Federal legislation continues to exist. It no longer debates the civil rights issue on the merits; it relies almost exclusively on parliamentary maneuver and obstruction and the exercise of blunt political power. We shall limit ourselves, therefore, to a statement of the need for action by Congress—now.

We are an educational organization. We have produced and distributed vast quantities of educational materials in all the media of mass communication—from movies through car cards, through curriculum guides for the classroom—designed to promote better human relations among Americans of all backgrounds. And we, and the hundreds of organizations private and governmental, engaged in promoting the same objectives, have much cause for gratification in the great progress that has been made in many fields of American life. But we cannot blink the fact that much remains to be done and that in certain areas of American life disrespect for the rights of many Americans has the force of deeply ingrained custom, buttressed by the institutions of law. It asks too much of education to expect it to teach the young equal rights for all Americans when their community commands and enforces inequality for some Americans. It is in such problem areas that we find the law and legislation must come to the aid of the educational process to give force to the good will and the better instincts of the community.

We know that in many areas, law—with its moral and educational, no less than its punitive, force—has come to the aid of the program to establish better group relations. The contributions of our Supreme Court have been outstanding. The contributions of the White House—in this and earlier administrations—have been noteworthy. The records of the States and large cities in enacting fair-employment-practice legislation and legislation outlawing discrimination in colleges and resorts is a model for the National Government. Congress alone has failed to make any contribution to the fight for equal opportunity for all Americans since the end of the Civil War and the days of Reconstruction.

No less important than the substantive effects of this congressional failure are its symbolic implications. In our governmental scheme, Congress is the most popular, the most representative branch of Government. It is regarded as being closest to the people. But surely it would not serve America's interests abroad to have the world believe that in the field of civil rights Congress is a truer barometer of the hopes and aspirations, the fears and prejudices of the American people than the Supreme Court and the White House. And we for one refuse to believe that Congress has been the true exemplar of the American spirit in civil rights. We believe that the Supreme Court and the White House have more truly reflected the genius and the nobler sentiments of the American people as well as their democratic ideals.

Your committee has before it bills for the creation of a joint congressional Committee on Civil Rights and a Federal Commission on Civil Rights in the executive branch to investigate and report annually on the status of civil-rights protection in the United States.

You have measures for elevating the Civil Rights Section of the Department of Justice to division status, to be headed by an Assistant Attorney General. There are provisions before you to strengthen existing rights to vote in elections without discrimination because of race, color, religion, or national origin, and outlawing discrimination in interstate commerce.

You have anti-poll-tax and antilynching bills and measures to secure equality in opportunity in employment.

Finally, you have measures to close the loopholes in the existing civil-rights statutes passed shortly after the Civil War. These acts undertake to punish State officials and conspiracies by private individuals to deprive persons of their rights, privileges, and immunities secured under our Federal Constitution and laws. Experience has shown that there are loopholes in these well-intentioned laws, and these should be plugged. Congress should spell out the Federal rights which are protected against infringement.

Here is a great opportunity for Congress to vindicate the recent Supreme Court decision on public-school desegregation. By strengthening the old civil-rights acts, Congress could make it crystal clear that willful violation of the right of schoolchildren to equality of education without segregation is a Federal offense. Such an amendment would discourage the vigilante groups that have sprung up in certain quarters for the purpose of defying the law of the land by pressure and intimidation. Such an amendment would help to insure that the necessary adjustment to the Supreme Court decision—an ad-

justment that men of judgment and good will in the South regard as inevitable—will take place with a minimum of friction or violence, and with the due and deliberate speed that the Supreme Court called for.

All of these are sound measures that would be good for America as a whole—for its spiritual, economic, and diplomatic well-being. But I would be extremely naive if I were to suggest that this full civil-rights program could be enacted in this 84th Congress. I would be equally naive, however, if I were to suggest that the total responsibility of the liberal Members of this Congress could be discharged by merely uttering words of support for these measures in a hearing and by being recorded right in a committee rollcall.

I should like to suggest earnestly and respectfully that the task of this committee and particularly its liberal members is not so easily discharged and that its true responsibility is to cull out from the omnibus bills those measures which are politically realistic now and to work assiduously with all the resourcefulness at their command for their enactment. The challenge and the opportunity are both before this 84th Congress. It can become the first Congress since reconstruction to adopt an effective civil-rights bill.

For the last decade our country has been struggling to win the support of the hearts and minds of the peoples of the world for the democratic cause. We have been vulnerable on the score of prejudice and discrimination against darker skinned Americans, especially vulnerable among those two-thirds of the world's inhabitants who are themselves colored. We may pray that the Geneva Conference is the hopeful sign of future international cooperation and peace that President Eisenhower believes it to be, and that the struggle between freedom and totalitarianism will center largely on the economic, political, and moral planes. But if our way of life is to prevail in the world, we must close the gap between our practices and our ideals in the treatment of minority groups. And it is time, high time, that Congress made its contribution to that end. If it does, I am confident we can surmount any threat in any form to our way of life.

Thank you, Mr. Chairman.

Mr. LANE. Thank you, Judge Rose.

Mr. BURDICK. I wanted to ask the judge a question.

Mr. LANE. Congressman Burdick of North Dakota.

Mr. BURDICK. You seem to think there is quite a load resting on the liberal members of this committee to further this legislation.

Judge ROSE. That is right, sir.

Mr. BURDICK. As one who claims to be a liberal just what would you outline for me to do in a case like this?

Judge ROSE. I think the liberal members of this committee, on which I am pleased to note your presence and also to note your future connection with my native State of Massachusetts——

Mr. BURDICK. I did not ask you that.

Judge ROSE. I think this hearing should not be concluded without some romance in it.

I think you should take those bills before your committee that you think have merit and should be passed, and devote the energies of your committee to those bills, not only for the mere favorable action of this committee, but for their ultimate passage at least in the House of Rep-

resentatives. It will not be sufficient to give vocal support to this legislation; they must have the militant support of this committee.

Mr. BURDICK. You know, of course, that New York has 45 Members of Congress and North Dakota has 2. You understand it is quite a battle, if I am for this legislation—which I am—to change the minds of 45 other people who may disagree with me.

Judge ROSE. I think the articulate and eloquent voice of a Member from a State that has only two Representatives can say as much as that of those who come from the heavily populated States. I think the record of the Midwest for liberal legislation has been noteworthy in American history.

Mr. LANE. Judge Rose, we are considering here today as in past hearings all of these bills, and there are about 50 in number. I know you have not had a chance to read and study all of those bills. As you have stated, some have to do with antilynching and other subjects. There is one bill, especially, by Congressman Roosevelt that proposes the establishment of a Civil Rights Commission. Do you have anything to say on that bill?

Judge ROSE. I do, and also with reference to the bill setting up a special division in the Attorney General's Office.

Mr. LANE. Yes, there is one to establish a Commission on Civil Rights in the Executive department and also to establish a Joint Congressional Committee on Civil Rights.

Judge ROSE. I think one of the most stimulating factors to the whole field of civil rights was the appointment by President Truman of a Civil Rights Committee and the very courageous report of that Committee. I think it highlighted and accentuated some of the shortcomings, if we are to achieve fully our American way of life. It stimulated the whole movement and indicated that civil rights is not something merely to be supported orally but is a part of our Government's active concern. I think the passage of such legislation and the establishment of such a Commission would contribute substantially to the movement toward full civil rights.

Mr. BURDICK. I notice you referred to the world situation and the American way of life. Do you not think the passage of some one of these bills that would be comprehensive enough would be an indication to the other nations of the world that we are just what we say we are?

Judge ROSE. That is right.

Mr. LANE. Judge Forrester of Georgia.

Mr. FORRESTER. Mr. Chairman, I want to ask the judge, referring to page 4 of your statement in the fifth paragraph, you say—

> you have measures to close the loopholes in the existing civil-rights statutes passed shortly after the Civil War.

Then you say:

> These acts undertake to punish State officials and conspiracies by private individuals to deprive persons of their rights, privileges and immunities secured under our Federal Constitution and laws.

As I read that, what you are saying is that these acts would undertake to punish State officials who deprive persons of their rights, privileges and immunities secured under our Federal Constitution and laws. Do I understand that correctly?

Judge ROSE. You refer to the second sentence of this paragraph:

> These acts undertake to punish State officials * * *

Mr. FORRESTER. That is right.

Judge ROSE (continuing):

and conspiracies by private individuals to deprive persons of their rights, privileges and immunities secured under our Federal Constitution and laws.

That is right, sir, State officials and private individuals who deprive persons of their rights, privileges, and immunities secured under our Federal Constitution and laws.

Mr. FORRESTER. Do I understand you to say here that these acts would undertake to punish State officials who do deprive persons of their rights, privileges and immunities secured under our Federal Constitution and laws?

Judge ROSE. That is right, as I understand these laws.

Mr. FORRESTER. In other words, if a judge commits an error and that error would have a tendency to deprive a person of his constitutional rights, that judge would be subject to punishment?

Judge ROSE. No, sir. That is not implicit nor intended. The judicial determination of a judge is privileged on his part and any legal interpretation by him could not by any stretch of the imagination, unless it were malicious—and I would not even say that—be within the purview of this legislation.

Mr. FORRESTER. I understood you to say if a judge erred in an opinion and it actually did impinge on a person's constitutional rights, he would not be subject to prosecution under this legislation; is that right?

Judge ROSE. He would not be; no, sir.

Mr. FORRESTER. If a judge should issue a warrant charging a person with a labor contract violation, has it not been held that the mere issuance of that warrant on the part of a justice of the peace constituted a violation of that person's civil rights?

Judge ROSE. I am not sure I am familiar with that decision, but I do not think it says the mere exercise of judicial authority constituted a violation of law. There would have to be an indication that the judicial act was the result of a conspiracy to deprive a person of his civil rights.

Mr. FORRESTER. Is the gentleman familiar with the Florida case where a justice of the peace issued a warrant charging a person with a labor contract violation and the courts have held that the issuance of that warrant was a violation of the person's civil rights?

Judge ROSE. I am not familiar with that but I would like to read that decision at least twice before I would come to that interpretation. I think it is the abuse of power rather than the exercise of power that would constitute the crime.

Mr. FORRESTER. How would you determine whether it was an abuse of power?

Judge ROSE. That would require a determination of the facts to determine the motivating factors. I do not think I can give you an example offhand at the moment.

Mr. FORRESTER. Of course we would not impose a burden on any judge, including you and me, to know all the law.

Judge ROSE. I am ready to make a confession that I am far from achieving that.

Mr. FORRESTER. So am I; that is why I am apprehensive of the language you are using here.

Judge ROSE. I am giving you here in capsule form the general principles of legislation involved in this rather than the specific bills. The general principles of the legislation undertakes to punish State officials and conspiracies by private individuals aimed at depriving persons of their rights, privileges and immunities secured under our Federal Constitution and at those who deprive them of these rights with malicious motivation.

Mr. FORRESTER. You did not say that.

Judge ROSE. I did not mean to refine the language, but I assure you that is what I intended to say.

Mr. BURDICK. I think you intended just what you said, and you said it all right in my opinion. If these officers conspire, either with other officers or private individuals, to deprive a person of his rights, do you not think they should be subject to some punishment?

Judge ROSE. If there is such a conspiracy, they should be prosecuted.

Mr. FORRESTER. That is not what the gentleman says here. The gentleman says:

These acts undertake to punish State officials and conspiracies by private individuals.

I do not think he meant to convey conspiracies on the part of State officials the way the gentleman has it in writing.

Judge ROSE. I would say this, sir, that the general purport of my whole statement would indicate that certainly the mere exercise by a State official of what he thought was proper authority on his part would not in and of itself constitute a criminal offense. I want to make that unequivocal statement.

Mr. FORRESTER. That is what I wanted clear on the record.

Judge ROSE. A person who merely exercises his authority and through judicial error on his part deprives a person of his rights is not within the purview of this legislation.

Mr. BOYLE. The law all over the United States confers an immunity on judges in the exercise of judicial authority. I took one case to the Supreme Court of the United States on that very question and that is the general proposition of law. If a judge acts in his judicial capacity, of course he is exonerated from any liability that would ordinarily come upon a private individual.

Mr. FORRESTER. Will the gentleman yield?

Mr. BOYLE. Yes.

Mr. FORRESTER. The gentleman is correct in that being the law now, but we are discussing the proposal of new law, and that is why I wanted to know if there was going to be a departure from the present law which you expressed.

Judge ROSE. No, sir.

Mr. FORRESTER. I want to ask the gentleman another question. In the last paragraph——

Judge ROSE. On the same page?

Mr. FORRESTER. Yes. You said:

By strengthening the old Civil Rights Acts, Congress could make it crystal clear that willful violation of the right of schoolchildren to equality of education without segregation is a Federal offense.

As I understand the witness, he is recommending that in instances like this a person could be prosecuted for a criminal offense?

Judge ROSE. That is right.

Mr. FORRESTER. I would like to ask the witness what he means there by saying:

Such an amendment would discourage the vigilante groups that have sprung up in certain quarters for the purpose of defying the law of the land by pressure and intimidation.

Judge ROSE. Well, shortly after the Supreme Court decision, the Congressman knows that there arose many vigilante groups in the country that were and are trying to bring about defiance of the law and who are discouraging integration in the public-school system of colored and white children. I think legislation of this type would discourage these groups. I think it is important to have Federal legislation to tell these people that Congress intends to implement the decision of the Supreme Court. These vigilante groups are now trying to discourage by pressure and intimiation and other means, particularly in the South, the carrying out of the Supreme Court decision.

Mr. FORRESTER. You feel you had a right before the Supreme Court decision to encourage anything you wanted to, but now under the Supreme Court decision you would make it a Federal offense for anybody who did not agree with you?

Judge ROSE. No, sir. I think everybody has a right to speak out in the spirit of the Constitution. Now that the Supreme Court has given its decision with unanimity, the groups that disagree with the Supreme Court decision should not be permitted to adopt any subterfuge or evasive methods to avoid carrying out the decision of the Supreme Court.

Mr. FORRESTER. Suppose a State should abolish its public-school system. Do you advocate legislation whereunder that would be an offense?

Judge ROSE. Yes, sir.

Mr. FORRESTER. In other words, you would deprive the States of being able to have any control whatever over their school systems?

Judge ROSE. I would deprive the States of trying to get around the Supreme Court decision by these means.

Mr. FORRESTER. You have said the States should have no right to abolish their public-school systems if they saw fit to do so.

Judge ROSE. If the purpose of abolishing the public-school system is to evade the Supreme Court decision, I think Federal law should prevent such action.

Mr. FORRESTER. I want to find out from you, are you advocating legislation whereunder a State would be deprived of its right to determine for itself whether it would have a public- or a private-school system?

Judge ROSE. If the purpose of the abolition is to circumvent the Supreme Court decision, Federal legislation, in my opinion, should be enacted preventing such action.

Mr. FORRESTER. I am talking of regardless what the purpose is.

Judge ROSE. I think it is important that the motivation be taken into consideration.

Mr. FORRESTER. How would you demonstrate what the motive was?

Judge ROSE. If a public-school system had been in existence for a considerable period of time vigorously supported by the State and its citizenry on a segregated basis, and if the Supreme Court should

decide such segregation is a violation of our Constitution, and if by peculiar coincidence there should be a decision by the State to abolish the public-school system, the conclusions are inevitable—and I think such action would be in direct contravention of the Supreme Court decision and the law of the land.

Mr. FORRESTER. Then you would advocate a law, a Federal law, that would prevent a State from abolishing its public-school system. It is just as simple as that.

Judge ROSE. No; it is not that simple. The purpose may be simple, but I think if the basic purpose of the abolition is to accomplish that purpose, there should be a law to prevent that.

Mr. FORRESTER. Let me see if I understand you correctly. Every State of the United States has a public-school system?

Judge ROSE. That is right.

Mr. FORRESTER. And has had for some time?

Judge ROSE. That is right.

Mr. FORRESTER. So what you are saying is that if a State had a public-school system for a number of years before the Supreme Court decision, if they should abolish the public-school system now you would hold that was a subterfuge to circumvent the Supreme Court decision and you would make it a Federal offense?

Judge ROSE. Under the circumstances I have outlined, yes.

Mr. FORRESTER. Then you are saying that no State has a right to abolish its public-school system.

Mr. BURDICK. Just a moment. That is not what I understood.

Judge ROSE. I do not accept that. It is not just one and one. It is one and one and one and the additional "one" is the intention.

Mr. FORRESTER. I cannot get any other impression. You have already conceded that every State in the United States has a public-school system. Then you said if a State should abolish its public-school system after the Supreme Court edict, that that would be construed as a subterfuge in order to avoid the Supreme Court decision.

Judge ROSE. I said if the purpose of abolishing a public-school system which may have existed over a century was to circumvent the decision of the Supreme Court, then legislation to prevent that is important and necessary.

Mr. FORRESTER. You know full well that the State of Georgia is now discussing going on a private-school system. You also know that the State of Georgia has for years had a public-school system. Actually, you are advocating that if the State of Georgia should abolish its public-school system, that it would come within this criminal statute that you advocate.

Judge ROSE. I also know that every reason advanced for abolishing the public-school system has been advanced since the Supreme Court decision and only because of the Supreme Court decision.

Mr. FORRESTER. Then you would hold the State of Georgia guilty under the criminal statute you advocate if it abolished its public-school system?

Judge ROSE. I would want Federal law to prevent Georgia or Massachusetts or any other State from violating the Supreme Court decision.

Mr. FORRESTER. You want legislation that would prevent Georgia from making any change in her school system?

Judge ROSE. Under the present circumstances of trying to circumvent the Supreme Court decision.

Mr. FORRESTER. You would want legislation to prevent that?

Judge ROSE. Under my qualification; yes, sir.

Mr. BURDICK. You admit that North Dakota, which has no segregation system at all, if they want to abolish their school system they have a right to do it?

Judge ROSE. Yes.

Mr. FORRESTER. But you would not grant Georgia the same right as North Dakota?

Judge ROSE. Only because of the motivation.

Mr. FORRESTER. It comes to this: You want a law to prevent Georgia from changing its public-school system?

Judge ROSE. Not per se.

Mr. FORRESTER. If it is not per se, what is it?

Judge ROSE. I think it is important that we discuss and determine first why Georgia wants to abolish its public-school system. If the intent is a malevolent one considering the Supreme Court decision, it should be prevented.

Mr. BURDICK. That is the ninth time you have said that. That should be enough.

Judge ROSE. I assure you the repetition is not motivated by me.

Mr. FORRESTER. Mr. Chairman, I have not objected at any time to questions asked by the gentleman from North Dakota. If I am allowed to ask these questions, I will ask them. If not, I will withdraw from this subcommittee.

Mr. BURDICK. I am not objecting to your asking the questions.

Mr. FORRESTER. You are always butting in

Mr. BURDICK. I want to be sure North Dakota could do something Georgia could not.

Mr. FORRESTER. I am shocked by that statement. I am as interested in Georgia, and you will find I always will be, as you are in North Dakota, and I want to ask that question and I think I am entitled to an answer. In other words, Georgia is already convicted.

Judge ROSE. I, too, am interested in Georgia. As an American, I am interested in all the 48 States. I believe if the people of Georgia were given an opportunity to determine this question they would decide that the Georgia public-school system can exist under integration and integration would prove itself not to the detriment of Georgia but to its betterment.

Mr. FORRESTER. Why do you not let Georgia decide that?

Judge ROSE. So far it has been difficult for Georgia to come to a decision. I think they should have stimulus from the Federal Government at this time.

Mr. FORRESTER. You want a law on the books so that there would be no alternative?

Judge ROSE. I think Georgia should be assisted by the Federal Government to make up its mind.

Mr. FORRESTER. I want to say to the gentleman, I also am an American. I am not only an American but a descendant of the folk who fought in the Revolution. I think I am an American, too. I think the people of Georgia are Americans. But I am deeply interested in the rights of the respective States, and I was in hopes the gentleman was, too.

Judge ROSE. I am, sir.

Mr. FORRESTER. You are, provided they go your way.

Judge ROSE. No, sir; provided they go the way the Supreme Court has decided they should go. It so happens my way coincides with the Supreme Court decision.

Mr. FORRESTER. Until a short time ago the gentleman did not have the Supreme Court decision and the gentleman was fighting just as hard then as now. I have never denied to the gentleman the right to fight. I believe if the gentleman went back through history the gentleman would find that when the Dred Scott decision was rendered an outstanding man, Abraham Lincoln by name, decried very strenuously that Supreme Court decision, and I believe he made the statement nothing is decided unless it is decided right.

I think one of the greatest things in America today is that people can have different opinions. People from the North, South, East, and West come here to Congress and although we disagree on many things we get together and we pass legislation. But what I am trying to get over to the gentleman is, will not the gentleman be a little tolerant with people who may not agree with him? Would the gentleman by criminal statute, Federal law, compel people to do something that perhaps they do not want to do.

Judge ROSE. I do not think I trespass on the spirit of tolerance when I advocate such legislation. I have a profound respect for the difference of opinion of the gentleman from Georgia. I do believe, however, that it is basic to the welfare of America that we pass legislation which does something more than we have at the present time. I think it is important that our Supreme Court decision, which is the result of a long and deliberate effort on the part of the American public to take stock of themselves and their deficiencies, be implemented on the Federal level.

Mr. FORRESTER. The *Plessy* v. *Ferguson* case was decided in 1896, before the gentleman was born. You are not following a policy which was in vogue in 1896. No one ever advocated a Federal law making it a Federal offense if the decision in that case was not followed. We have struggled from 1896 to date, and I am wondering why you would want to adopt the expediency of making it a criminal offense against persons who never advocated that against you.

Judge ROSE. If I had been alive at the time of the *Plessy* v. *Ferguson* case I do not know what kind of tolerance would have been exhibited. I believe many Southern States have laws that make it a criminal offense to differ with what is the law of the land.

Mr. FORRESTER. To differ with it?

Judge ROSE. Yes.

Mr. FORRESTER. What States?

Judge ROSE. There is legislation in many States that prohibits the mingling of the races on public carriers. I say that following the *Plessy* v. *Ferguson* case many Southern States passed legislation compelling segregation.

Mr. FORRESTER. But they never passed a law making you agree with them.

Judge ROSE. I do not think this law intends to do that. It says so long as it is the law of the land it should be a criminal offense to

violate it. I think there are many laws in this land with which we are all in disagreement, but we do not violate them.

Mr. LANE. Any further questions?

Mr. BURDICK. I want to ask the gentleman from Georgia; I know a little something about the Dred Scott decision. As a result we had the War Between the States. Do you think this segregation question is of the same character and that if it is not settled we may have another war between the States?

Mr. FORRESTER. I have never said anything like that by the widest stretch of the imagination. I never have advocated war; I never have.

Mr. BURDICK. I do not think the gentleman has, but I am asking you, Is this segregation question to your mind as serious now as the Dred Scott decision was?

Mr. FORRESTER. I would say that my opinion is this: People who did not like the Dred Scott decision could criticize it with impunity and there was no Federal statute passed compelling them to obey that law. In this kind of legislation it would be a criminal offense for anybody who does not agree.

Judge ROSE. No, sir; anybody that violates; not that disagrees.

Mr. FORRESTER. You say you will determine that by the background and past history.

Judge ROSE. There will be a judicial determination.

Mr. BURDICK. This is a serious question to the people of the South.

Mr. FORRESTER. It is a serious question to everybody.

Mr. LANE. Any further questions?

Mr. BOYLE. I want to compliment the judge for the way he has tried to answer these questions as forthrightly as possible. This question is not new, is it, Judge?

Judge ROSE. By no means, sir.

Mr. BOYLE. It has challenged the minds of the greatest Americans since the Civil War; is that true?

Judge ROSE. That is right, sir.

Mr. BOYLE. There has been an adjudication by the Supreme Court of the United States on the question of segregation as it refers to education; is that true?

Judge ROSE. That is right, sir.

Mr. BOYLE. And you feel that the decision is the supreme law of the land?

Judge ROSE. I do.

Mr. BOYLE. And you likewise feel that it should be obeyed?

Judge ROSE. That is right.

Mr. BOYLE. And you feel you should not do indirectly what the Court has pronounced you cannot do directly?

Judge ROSE. That is right.

Mr. BOYLE. And you feel if people form a conspiracy to circumvent the pronouncement of the Supreme Court of the United States, that matter should arrest the attention of Congress?

Judge ROSE. That is right.

Mr. BOYLE. And it is your opinion that as Congressmen we should promulgate a law, if we can, that will remedy that situation if it obtains; is that right?

Judge ROSE. That is right, sir.

Mr. BOYLE. And you do not want to have this reductio ad absurdum argument extended to the limits that the States do not have a right over their educational systems?

Judge ROSE. That is right.

Mr. BOYLE. The States have the primary responsibility of taking care of their educational systems?

Judge ROSE. Yes.

Mr. BOYLE. They had the right of establishing their educational systems and now it becomes a question whether they have the same negative right if they want to say by an act of their legislature they want to abolish their educational system; some court would have to determine that?

Judge ROSE. Yes.

Mr. BOYLE. Even the Supreme Court has two sides, you will find from the late Supreme Court reports, and honest minds and honest lawyers have disagreed as to what the decision is, but it is your feeling that judges who, in the exercise of a judicial act, err are not subject to punishment within the purview of the proposed legislation?

Judge ROSE. That is right.

Mr. BOYLE. But you feel that individuals who have the job of supporting the Constitution of the United States, if they go ahead and form a conspiracy to violate the supreme law of the United States, there should be some law to take them to task punitively?

Judge ROSE. That is right.

Mr. BOYLE. At the moment you probably are not too familiar with the type and language of the law on that subject?

Judge ROSE. No, sir. I have spoken in general terms, sir.

Mr. BOYLE. I want to thank you, and I want to tell you I regard myself as a liberal and I regard myself as an American, like all the rest of us, but I do say you cannot oversimplify these problems. I do agree with your recitation on page 5 that the liberal Members of Congress are charged with the responsibility of working assiduously for the enactment of civil-rights legislation. I think that statement is true. I shall be happy to do what little I can to implement the Supreme Court decision.

Judge ROSE. Thank you for clarifying what may have been a confusing statement by me.

Mr. LANE. Any further questions?

Judge Rose, may I reiterate that I appreciate your coming here and appreciate having your fair and straightforward statement and your answers to the various questions here. I know you have been most helpful to us and we appreciate your having come here.

Judge ROSE. Thank you.

Mr. LANE. Did you want to add anything to what Judge Rose has just said?

Mr. EDELSBERG. No, Mr. Chairman; I am going to stand on what Judge Rose has said. I think Congressman Burdick has put it very well. We cannot really discuss the details of this legislation. It is a question of firm realism and will be for the Members of Congress.

Mr. LANE. Thank you.

Mr. ROSE. Thank you, Mr. Chairman.

STATEMENT OF ROY WILKINS, EXECUTIVE SECRETARY OF THE NAACP, NEW YORK, ACCOMPANIED BY CLARENCE MITCHELL, DIRECTOR, WASHINGTON BUREAU, AND J. FRANCIS POHLHAUS, COUNSEL OF THE BUREAU

Mr. WILKINS. Mr. Chairman, and members of the committee, I am Roy Wilkins, executive secretary of the National Association for the Advancement of Colored People.

Mr. LANE. You may proceed, Mr. Wilkins.

Mr. WILKINS. First, I want to express my appreciation for the opportunity to appear before you. Accompanying me are Clarence Mitchell, director of our Washington bureau and J. Francis Pohlhaus, counsel of the bureau. Because he has served as a lawyer in the Civil Rights Section of the Department of Justice, Mr. Pohlhaus is here to answer questions that may arise with reference to the parts of the bill before the subcommittee relating to sections 241 and 242 of title 18, United States Code, and which I frankly acknowledge are beyond my technical and legal comprehension, especially as they relate to sections 241 and 242.

Mr. Chairman, we appear at this hearing with the knowledge that committee study of this type of legislation in the past has resulted in the excellent documentation of the problem, but no remedy in the form of a new law. Nevertheless, we come in good faith and also with the firm belief that, by determined effort on the part of both parties, the 84th Congress can enact the major part of the proposals before this subcommittee.

The bills before the subcommittee cover such basic subjects as fair employment, protection against violence, protection against segregation in interstate travel, protection of the right to vote, and prohibition of racial segregation in housing and education programs that receive any form of Federal assistance. Their enactment would require the establishment of a Fair Employment Practice Committee with enforcement powers, amendment of the existing civil rights laws, strengthening of the functions of the Department of Justice in the civil rights field, and other measures.

If these bills were now the law, a great part of the legislative program in the 84th Congress could be considered more objectively than is now the case. At the beginning of this session, apparently there was an agreement on the part of the Democrats to avoid the issue of civil rights. A similar code of rules had prevailed in the 83d Congress under Republican control. Yet the issue of civil rights has arisen because it is an American problem that cannot be solved simply by wishing it would go away.

When the national reserve training bill was placed before the Congress, we sought an amendment which would correct discriminatory provisions in the program sent to Congress by the Department of Defense.

Although colored people constitute from 30 to 49 percent of the population of the States in the Deep South, the representatives of those States were the chief opponents of amendments which would guarantee that the Nation could use all of its manpower in the defense forces without the handicap of racial exclusion. There is no doubt that if the right to vote were fully protected in the Southern States,

as the bills before this subcommittee would provide, there would be no necessity for such amendments.

The question of whether housing and education grants or activities of the Federal Government should be free from the taint of racial segregation has presented a dilemma for many men and women of good will in the Congress. They have seen the overriding human need for better schools, more housing, and more hospitals. Yet, they are ever conscious of the possibility that some southern Members of Congress may face political doom if these bills pass with antisegregation safeguards included. The real reason some oppose such amendments is not because these proper and germane amendments would kill the entire bill, but because it is thought that they might kill the prospects of some Senators and Representatives when these come up for reelection.

In his press conference on June 8, the President said:

> My own feeling on legislation is a simple one. If you get an idea of real importance—a substantive subject and you want to get it enacted into law, then I believe the Congress and I believe our people should have a right to decide upon that issue by itself.

Mr. Chairman, these bills represent a "substantive subject" or perhaps more accurately stated, "substantive subjects." We ask that the President and the leadership of both parties openly state that they support this program and will work for passage of the bills before this subcommittee. We wish to make it clear, however, that until these bills become law we must continue to seek remedies against unfair and unlawful treatment via the amendment process.

There is the field of fair employment.

In an industrial society such as ours, the right to work is the right to self-respect, and, in some cases, the right to live.

Prior to World War II, colored citizens of the United States were forced on relief rolls in numbers far out of proportion to their place in the total population, because of discrimination.

When the war began and more manpower was needed in many northern cities, available resident colored people were denied jobs while whites were imported from the South. This created problems of housing, sewage, water supply, and many other headaches, but with the blindness that characterizes prejudice, those responsible continued to discriminate.

When industry expanded in the South and manpower needs became more acute in other areas, prejudice still interfered with the national defense but in a different way. By this time, trained colored people in the South had to leave for the west coast or northern cities to find jobs, even though the same type of work was available in their home communities, but for whites only.

We are now in a period of industrial migration from the North to the South. The enactment of a fair employment practice law would do much to make it possible for northern communities to compete with the South on the matter of labor, supply, and wage scales. Existing practices of discrimination in employment in the South have helped to keep wage levels lower than those of the North. Labor unions have not been as effective in organizing in the South because of racial discrimination.

Sometimes, employment discrimination is enforced by State law, as in South Carolina, where it is unlawful to employ colored and white

operators in the same room in the textile industry. This South Carolina statute permits any citizens of a county in which the law is violated to sue the offending company and collect $100.

Mr. Chairman, I would like to interpolate a statement here by quoting from the South Carolina statute, because it is pertinent, not only to our discussion, but to some of the discussion that preceded my testimony.

Mr. LANE. I think it would be fine to have that. I was not familiar with that statute in South Carolina.

Mr. WILKINS. This is section 1272, Separation of Employees of Different Races in the Cotton Textile Factories. I read here from the labor laws issued by the Department of Labor, State of South Carolina. At that time the commissioner of labor was R. L. Gamble:

> It shall be unlawful for any person, firm, or corporation engaged in the business of cotton textile manufacturing in this State, to allow or permit operators, help, and labor, of different races to labor and work together within the same room or to use the same doors of entrance and exit, at the same time, or to use and occupy the same pay ticket windows or doors for paying off the operators and laborers at the same time, or to use the same stairways and windows at the same time, or to use at any time the same lavoratories, toilets, drinking water, buckets, pails, cups, dippers, or glasses.

This is an excerpt, sir, from the regulations of the State of South Carolina.

Mr. BOYLE. What is the date of that statute?

Mr. WILKINS. This is in the Statute of South Carolina, revised February 15, 1953.

Mr. MITCHELL. That statute is still in effect, Mr. Chairman.

Mr. BOYLE. Yes.

Mr. WILKINS. That is correct. The methods used by law-enforcement agencies to curb labor unions seeking to organize colored and white persons will be mentioned in this testimony under that portion of it dealing with violence.

In the 82d Congress, the staff of the Senate Labor Committee prepared a report on the employment and economic status of Negroes in the United States. I offer a copy of that document for the subcommittee's files.

Mr. WILKINS. The situation has not changed very much so far as discrimination is concerned. Even in a period of full employment, such as we have now, the wages paid to colored workers average $1,570 per person, while the wages paid to whites average $3,039.

The absurdity of discrimination is nowhere better illustrated than by the telephone companies of the United States. For years, even in northern cities, these companies refused to hire colored operators.

Responsible officials of the companies in New York, Philadelphia, and Chicago insisted that employment of colored operators would disrupt service and result in the loss of personnel. Today, these same companies employ colored operators and publicly agree that the program is a complete success.

On the other hand, beginning with Baltimore and Washington, all of the southern companies still refuse to employ colored operators. They still use the same old arguments that the companies of the North used, but later discarded in favor of the real truth.

Then in the matter of violence: Again, and again, we see newspaper stories and hear speeches expressing pleasure because of the decline in

lynching in the United States. It is true that the oldtime mob, armed with rope and faggot, has disappeared from the American scene. In its place, there is the more sophisticated and efficient system of killing by bomb, blasting with shotguns, and shooting by police officers while the victim is alleged to be "resisting arrest."

I offer the subcommittee a few examples of what I mean from our files.

On Christmas night, 1951, Mr. and Mrs. Harry T. Moore, respectable citizens with a lifelong record of community service in Mims, Fla., were killed when their home was blown up by a bomb. Mr. Moore was State secretary of the NAACP and had been active in a program to increase registration and voting among his people and to eliminate discrimination and inequality. A quiet, studious, religious man, his crime was that he wanted equality for his people. His wife was a schoolteacher of impeccable reputation and death was the penalty she paid for merely being married to him.

Then there was the case of Rev. G. F. Lee, of Belzoni, Miss., killed by a shotgun blast while riding in his car on the night of May 7, 1955. He had been threatened because he was the first of his race to register to vote in his county and because he had refused to remove his name from the voting list.

This case, I may add, is still under investigation by State and local authorities but it has been since May 7, and nothing has yet been reported or done.

Now, from 1948 to 1950, the police in Alabama were very busy and killed a total of 52 colored people, and in most of these cases, the officers said that the shooting was either accidental or in self-defense.

And another case which I have cited here in the written testimony and which I will not impose on the time of the committee to read, but we have cited a number of beatings and brutalities and I call attention only to No. 5, as it appears at the bottom of page 6 of the prepared statement, and that is the case of William Henry Owens, a 16-year-old boy, who was driving his employer, an elderly white couple, from Kentucky to Florida and was severely beaten on June 14, 1955, by Georgia State Trooper J. W. Southwell near Ellaville, Ga. From all accounts, the State trooper merely stopped the car, ordered them to pull over to the side of the road and ordered the young driver out and began beating him, and when the Mattinglys, the employer, protested, he told them to keep quiet or they would be included also.

And afterward when Officer Southwell was cleared, he said that "beating a nigger is all in a day's work."

These are some of the extensions of violence, the refinements of violence that we find as exemplified, particularly in the State of Georgia, among the examples that I have cited here.

Mr. BURDICK. Was there any cause indicated for that beating?

Mr. WILKINS. No, Congressman Burdick. No cause, no allegation of beating, no allegation of any traffic violation, that is, as we have been able to discover, and Gov. Marvin Griffin, of Georgia, in response to the request from some citizens in Atlanta, said that he was asking for a report on this matter. To date, we have seen no such report and do not know what Officer Southwell alleged was the crime that necessitated this kind of treatment.

Mr. MITCHELL. Mr. Chairman, I would just like to say further with reference to the question that Mr. Burdick raised, that on that same

page that Mr. Wilkins referred to is reference to the case of Pvt. James Wade, a man who was beaten by a policeman in Louisiana, while he was on duty with the Armed Forces. That has been extensively investigated. There is a tremendous file on it including the testimony of a white lieutenant who was the commanding officer of the outfit in which this man was serving. That lieutenant, as he indicated in his statement, actually went to the police and talked with them about what this man had done; they said "he was a smart nigger who needed the so and so beat out of him."

I ask for the right to mention that because this committee has before it a communication from Mr. David Smith, Assistant Secretary of the Air Force, dated July 19, in which he says that the questions involved in H. R. 389 are matters of broad public policy, not of primary concern to the Department of Defense. I would just like to know what more concern they need to have than the right and the obligation to protect a member of the armed services who are subjected to that kind of brutality.

Mr. WILKINS. Thank you, Mr. Mitchell.

We have, Mr. Chairman and members of the committee an exhibit from Live Oak, Fla., which from this record is live indeed.

On November 7, 1950, the NAACP reported to the Department of Justice that colored persons, in some instances children, were being beaten under what appeared to be a revived Ku Klux Klan program. On July 19, 1955, we again reported to the Department two floggings and assaults upon colored people in Live Oak. Richard Crooks, a Negro, was beaten during the month of June because he refused to let his nine children work in the tobacco fields. Mrs. Mary Ann Brown was beaten by a bill collector who was formerly a deputy sheriff.

Mr. LANE. Right there, Mr. Wilkens: Do we have any more trouble now with the Ku Klux Klan that previously operated in that area?

Mr. WILKENS. Chairman Lane, as such, under the label, Ku Klux Klan, we have very little trouble, but we have what Judge Rose referred to briefly in his testimony, vigilante groups, resembling to some degree the Ku Klux Klan, operating in various areas. I am sorry that Congressman Forrester is not here. One of these groups is organized in the State of Georgia, the National Association for the Preservation of the Rights of the Majority White People of America, I believe is the name of it.

Mr. LANE. You feel that the vigilantes are active in some of our States?

Mr. WILKENS. They are active in some of the States. This one bobbed up in Florida, whippings and floggings, although it might not be under the name of the Ku Klux Klan.

Mr. LANE. You mean they are active under another name now?

Mr. WILKENS. Under a variety of names; under a variety of names. There is not an overall national designation like Klan, and in one State you may find it——

Mr. LANE. Well, they call themselves vigilantes, do they?

Mr. WILKENS. In Virginia, where they disavow violence, I will say that for them, and in Mississippi where they also disavow violence, they are known as the White Citizens Council. In Alabama, the White Citizens Council is spread and organized; they have gone from Mississippi into Alabama. In Virginia—I am sorry; I am sure that I can recollect the name—I think it is known as the Society for the

Preservation of State Government and Individual Liberty. It is a long complicated name, but they disavow violence.

I would like to point out to the committee, however, that the formation of these groups and their naked advocacy of repression on the basis of race nullifies their protestations of no violence, because by this they encourage other people in the community and in the State to engage in violence.

Let me cite, if you will permit me, the case of Reverend Lee, of Belzoni, Miss. The White Council of Mississippi, although they had disavowed violence, and disavowed that they had ordered the killing of Reverend Lee, or that they had conspired to kill Reverend Lee, and that they did not believe in violence, that they only believed and were opposed to integration of the Negroes and the whites in public schools—that is what they said. Nevertheless, by the statements that Negroes should be prevented from voting, that Negroes should be restricted from voting, that Negroes had to be kept out of schools, and that all measures were acceptable and permissible in accomplishing these ends, they encouraged somebody in Belzoni to follow Reverend Lee in his car, at midnight on May 7, and shoot him dead. He was shot to death with a shotgun blast. They came up alongside the car and leveled a gun right at his left jaw.

Now, it is our contention, sir, that these groups, even though they are not denominated Ku Klux Klan, and even though they will not willingly accept the name "vigilantes," which we put upon them, are nevertheless encouraging the Klan spirit and the vigilante spirit, the spirit which takes the law into its own hands, resists law, and engages in intimidating minority groups.

Mr. BURDICK. Let me ask your attorney a question. What was his name?

Mr. WILKINS. Mr. Pohlhaus.

Mr. BURDICK. In this William Ownes case, you have not found out why he was taken out and beaten up? No reason was given? Are you familiar with that case?

Mr. POLHAUS. Not too familiar with it, Mr. Burdick.

Mr. BURDICK. Has not your group, anyone in your group, made any examination to see what the purpose was in this attack? Why did they beat him?

Mr. POLHAUS. It is my understanding that the case is still under investigation at this time.

Mr. WILKINS. That is right. The case is still under investigation; the boy has gone back to Kentucky. His employers went on to Florida, continued their trip, and the boy was finally released when somebody sent word back to Kentucky, from which they came, and secured bail money. The justice of the peace was alleged to have said that he was lucky to get out for what he did, that he ought not to be released.

Congressman Burdick, I know this may sound a little incredible to you, sir, coming from North Dakota, but it is not necessary to have a reason for beating Negroes in a place like Georgia. They are not estopped by any requirement or pro forma charge; it just happens if the officer does not feel well, or does not like the way you look, or how you walk down the street, he doesn't have to have a reason. You do not necessarily have to have committed a crime.

Mr. BURDICK. I would say this is one of the greatest indictments of our system that has ever come to my attention, because that is the sort of thing that cannot continue.

Mr. MITCHELL. Mr. Burdick, I would like to observe that the difference between that kind of thing and the situation that I am sure you are familiar with here in the District of Columbia, is that, in that area, it is protocol for a police officer to treat a man as this man was treated.

You may recall that a few days ago, there was a shooting here in the District of Columbia, where a policeman had a traffic disagreement with a colored truckdriver. The policeman pursued the colored truckdriver, caught up with him and finally shot him to death. That case is now being prosecuted through the courts in the District of Columbia.

But there would be no prosecution; there has been no prosecution, and not in the foreseeable future will there be any prosecution of similar cases in the Southern States. That is why it is so important to have a Federal statute.

I say with all respect to this committee, that the attitude of the Southern States is exemplified by a member of this subcommittee, Mr. Forrester, in his attack the other day when Congressman Roosevelt was testifying with reference to the bomb murder of Mr. and Mrs. Harry Moore. You may remember that during that testimony Congressman Forrester sought to develop evidence or statements which would show that perhaps Mr. and Mrs. Moore were not respectable citizens. There is no such evidence. The great tragedy is that instead of seeking out the culprit, those in charge of the law enforcement, starting with the Governor and going on down to the judges and prosecuting attorneys and the policemen, all stand on the side of giving the policeman the right to be the judge, jury, and executioner in these situations.

Mr. BURDICK. As I understand, Mr. Chairman, this is a public hearing.

Mr. LANE. Yes.

Mr. BURDICK. I would hate to have this information get into the hands of the Russians.

Mr. MITCHELL. Yes.

Mr. LANE. I would like to ask you, Mr. Wilkins, if you will give us the names of some of the States in which this kind of thing is being followed up against Negro people.

Going back a little, as I recall, the Ku Klux Klan was formed as an organization which did violence, not only against Negro people but other good American citizens. But the vigilantes that you are speaking about, their activities, are directed to Negro people or to other persons as well?

Mr. WILKINS. At the present time, primarily against Negroes. A good many of them, Mr. Lane, have been the outgrowth of this Supreme Court's opinion of May 17, 1954, although not all of them. They all are using as an excuse, the right to disagree, as the Congressman from Georgia said, with the Supreme Court's opinion. Of course, the right to disagree, and the right to resist with violence are two different matters. But the action that has been taken in a number of our cases, such as Mr. Mitchell has indicated, have involved

Negro servicemen who are traveling from place to place throughout the South. The case here of the lieutenant in Mississippi—the beatings that have taken place—we cite one at Memphis, Tenn., one at Elm City, N. C. We cite the case of a man coming from Camp Polk, La., we had the case of another man coming from an airbase at McDill Field, Fla., over through Mississippi, and en route to St. Louis or Kansas City, or someplace north of Mississippi, being beaten by a bus driver, when the bus stopped in Mississippi, because he objected to the way the bus driver was trying to seat his wife. They were going home for her to have the child—and the bus driver struck him, and he went to the city police of this little town to tell them that the bus driver struck him and the police thereupon turned upon him and beat him and threw him in jail. And his friends—East St. Louis was the town—had to send word and money down to get him out.

These are not, I want to emphasize, the activities of any nationally organized group, but of sporadic groups that have sprung up here and there in a good many Southern States.

Mr. LANE. Will you name those States?

Mr. MITCHELL. We have, Mr. Chairman, a card file system of keeping records of violences, such as the bombing and killing by policemen, without justification and things of that sort.

I have with me approximately 25 of those cards. The States included are Alabama, Mississippi, Florida, Louisiana, and even one in the State of Maryland. And I left out Georgia; I should have included Georgia also.

Mr. LANE. You have none in New England?

Mr. MITCHELL. We have not had any.

Mr. LANE. You may proceed, Mr. Wilkins.

Mr. WILKINS. Mr. Chairman, I would like next briefly to address myself to the question of the right to vote.

Again and again, the Southern States have passed laws, devised questionnaires, and concocted devious schemes to deprive Negroes of their right to vote. The Mississippi Legislature enacted a new registration law March 24, 1955, which provides for sworn, written application for registration to vote. Registrars are instructed to designate a section of the State constitution to be copied down by the applicant. Thereafter question 19 of the application says:

> Write in the space below a reasonable interpretation (the meaning) of the section of the Constitution of Mississippi which you have just copied.

Then comes question 20 which is the catchall question, which says:

> Write in the space below a statement setting forth your understanding of the duties and obligations of citizenship under a constitutional form of government.

This question, Mr. Chairman, and members of the committee, is designed to give the registrar broad latitude in judging the answer of any applicant on his understanding of the duties of citizenship, and thus make it easy to disqualify him. But no sooner had Governor White of Mississippi signed the bill setting up this system than the association of county registrars protested and demanded a new bill. The association said, according to the daily newspaper reports, that written applications on file would make it difficult to explain to an investigator why a white applicant was approved and a Negro disqualified. An official is quoted as saying, "There are some things you don't want known."

In 1952 the total population of Mississippi was 2,178,914, of which 1,188,429 were white and 990,354 were Negro. Although there were 710,000 whites and 497,000 Negroes of voting age (a total of 1,207,000) only 285,000 votes were cast in the 1952 presidential election, less than 25 percent of the persons of voting age. The Negro registration in 1952 was estimated at 20,000, highest in history, yet it was only one twenty-fifth of the Negroes of voting age. How many actually were permitted to vote is not known.

In 1947 Senators Styles Bridges and Bourke B. Hickenlooper issued a report showing that campaigns to restrict voting by colored citizens in Mississippi had been highly effective. On page 21 of the Report of the Special Committee To Investigate Senatorial Campaign Expenditures in 1946, there appears a list of counties in Mississippi. In Adams County, where the colored population was 16,885, only 147 were registered voters.

Mr. BURDICK. How many out of 16,000?

Mr. WILKINS. Out of 16,885, only 147 were registered voters. Out of the white population of 10,344, over 3,000 were registered voters. In Washington County, where 48,831 colored persons lived, only 126 were registered, while out of a total of 18,568 whites in the county over 5,000 were registered.

Through changes in election laws, trick questions and economic pressure, the number of colored persons who are permitted to vote is sharply restricted. It was estimated in the spring of 1955 that Negro registration in Mississippi had been reduced from about 20,000 to about 8,000. In one county—Humphreys—the number had dropped from about 400 to 91.

Prior to the 1954 election, we received firsthand reports on how prospective voters were intimidated. Perhaps the most impressive of these accounts came from a man who said that after he paid his poll tax he was called in by his employer. The employer ordered him to tear up the poll-tax receipt and stay away from the polls on election day if he wanted to keep his job. When the man complied, the employer added as he was leaving, "You had better not tell anyone I made you do this because I don't want the FBI after me."

The strengthening of the Federal laws so that violence may be curbed and denial of the right to vote by both direct and devious means may be halted is one of the most important tasks confronting the Congress. And I believe there are bills pending before this committee for strengthening the Department of Justice, the Civil Rights Section, including closing up loopholes in the civil-rights laws, and making other corrections for situations which I have attempted to outline.

Then there is segregation of travel which the Supreme Court has just declared is a burden upon commerce and unlawful. Yet the litigation goes on because the Jim Crow signs still remain in waiting rooms and on the trains and in restaurants.

As with FEPC, the Congress has made extensive investigation on the need for legislation in this field. I offer for the subcommittee's files the hearing record before the House Committee on Interstate and Foreign Commerce on this subject.

This contains a digest of State laws, requiring segregation in travel, found at page 110 of that hearing (hearings before Committee on

Interstate and Foreign Commerce, House of Representatives, May 12, 13, and 14, 1954—p. 110—filed with the committee).

Mr. WILKINS. Questions were raised, Mr. Chairman, as to whether or not there were State laws requiring segregation. There are, of course, hundreds and hundreds of such statutes.

In conclusion, we have not attempted to review all of the bills under consideration nor have our citations above indicated our opinion of the order of importance. All these civil-rights measures are important and we have testified in support of them year after year, Congress after Congress.

We urge the enactment of all of them. It is up to the Congress to act since most of the data in support of each bill are well known through public discussion and through documentation in numerous committee hearings. We realize that committee hearings are a necessary procedure in the legislative process, but we are aware, also, that committee hearings are not enough, and that unless this legislation is reported out and acted upon on the floor of the House, the hearings amount to a meaningless gesture.

The Congress has not enacted a civil-rights law for more than 70 years. Time has marched on and changes have occurred, but the Congress has stood still. The executive branch of the Government has acted, often in an effective manner. The judicial branch of Government has acted effectively in step with the times. Some State and local governments have enacted a variety of antidiscrimination legislation, much of it in the very fields covered by the bills before this committee. This body of State and local law is working and a segment of the population is being benefited. Private organizations and institutions, such as medical societies, college fraternities, labor unions, professional associations, private colleges, have altered their policies and in their areas have translated American democratic principles into democratic practices.

Only the Congress has been laggard. Through the operations of the Rules Committee in the House and the Filibuster Rule 22 in the Senate, all such legislation has been choked off or at best passed in a meaningless and harmless fashion.

We believe the time for action is long overdue and that the patience of the people has worn thin. We believe that as they approach the 1956 election they will weigh not merely the protestations of the individual Congressmen, but the actions of both major parties in this legislation. The majority party cannot escape its responsibility, nor can the minority party deceive anyone by playing a leisurely game of volleyball with its opponents on the question of civil rights. We express the earnest hope that the 84th Congress will produce civil-rights legislation.

Thank you, Mr. Chairman.

Mr. LANE. You are aware, of course, that the first session of the Congress is almost ready to adjourn and the chances are that there will be no action in this first session.

Mr. WILKINS. Mr. Chairman, that is the reason I was careful to say the 84th Congress rather than this session of the 84th Congress.

Mr. LANE. Are there any further questions of Mr. Wilkins?

If not, we appreciate your helpful statement and also the assistance of your counsel and the contributions that were made by those who accompanied you.

If there are no further questions, we thank you very much.

Mr. MITCHELL. Before we leave, I would like to offer for the record a statement which we submitted to the House Committee on Banking and Currency with reference to housing legislation. The Administrator of the Housing and Home Finance Agency was before this committee the other day and made a number of statements which I believe this testimony would refute. I would like to have permission to offer it for the record.

Mr. LANE. Without objection that will be done.

(The testimony referred to follows:)

STATEMENT OF CLARENCE MITCHELL, DIRECTOR, WASHINGTON BUREAU, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, THURSDAY, JUNE 9, 1955

(Extract from hearings before the Committee on Banking and Currency, House of Representatives, 84th Cong., 1st sess., on H. R. 5827 (superseded by S. 2126), housing amendments of 1955)

Mr. MITCHELL. Mr. Chairman and members of the committee, I am Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People.

The national housing program is a cruel and disgusting hoax so far as colored citizens of the United States are concerned. Each year, through the expenditures of millions of dollars in FHA, VA, and slum-clearance programs, the United States is expanding housing segregation.

It is an incredible paradox that the same Government which has valiantly and successfully fought racial segregation on other fronts is actively promoting segregation in the places where our citizens live.

An analysis of census data, 1940–50, reavels the following facts:

Nonwhites comprised 10.3 percent of the total population in 1950, but occupied only 8.6 percent of all occupied dwelling units.

The nonwhite population increased at a faster rate than the number of dwelling units it occupied—15 percent against 10 percent—whereas the reverse was true for whites—14 percent against 23 percent. For nonfarm areas alone, the nonwhite population rose by nearly 40 percent, while the number of dwelling units it occupied increased by only 31 percent.

The proportion of overcrowded units, with more than 1½ persons per room, among nonfarm dwellings occupied by nonwhites was some four times as high as that for whites.

In nonfarm housing only, the proportion of dilapidated homes among nonwhites was five times as high as among whites—27 percent as compared to 5.4 percent—and, in addition, the proportion of homes not dilapidated but lacking in one or more of piped running water, private flush toilet, private bathtub or shower, was more than twice as high among nonwhites as among whites, 35 percent as compared to 17 percent.

Although homeownership rose sharply among nonwhites during the decade 1940–50, nearly two-thirds of the nonwhite households in nonfarm areas were still renters in 1950 as compared with 45 percent of white nonfarm households.

We offer evidence found in 1950 Census of Population, covering 168 standard metropolitan areas. These data show a marked difference between whites and nonwhites in the pattern of growth within standard metropolitan areas during the decade. The increase of the white population within the central cities was 10.1 percent in contrast to 35.9 percent outside of these cities; the increase of the nonwhite population was 48.3 percent within the central cities and 32.0 percent outside These figures, based as they are on the overall average, tend to obscure the striking contrast that exists in the cities showing significant increases of nonwhite population. In the vast majority of these cities practically all of the population increase for nonwhites has concentrated in the central city while the bulk of the increase among the white population is shown outside of the central city.

In short, the prevailing pattern is that of a central city, with rapidly increasing and spreading residency by racial minorities, ringed by expanding relatively new all-white suburban areas. The conditions under which these new areas are developed and sold or rented effectively retain them as white residential

areas whether or not racial restrictive covenants are used. Significantly, it is these areas into which most new residential construction has taken place.

In other words, to give a specific example, gentlemen, we might take the city of Washington. I think it is generally known here that the proportion of colored people in the central city of Washington increases, whereas if you look at the metropolitan area as a whole, including the suburban areas, the population ratio has remained about the same. This has come about because in the areas that surround Washington, where FHA funds have made new housing possible, the Negroes are excluded; whereas, in the central city, where old housing, which now exists, is available, we have won court cases which make restrictive covenants inapplicable. The result is if a colored man has the money and there is a willing seller, he can buy a house in Washington proper, but no matter how much money he has if he tries to buy a house in most of these suburban areas which have been made possible by FHA insurance he cannot buy it, because the owners of those developments refuse to sell them, solely because of race.

The National Association for the Advancement of Colored People has consistently urged that the Congress, the executive branch of Government, and the courts, eliminate the blight of second-class citizenship from the housing field.

Our efforts have been partly successful in that we have ended court enforcement of racial, restrictive covenants. Where there is a willing seller, and a colored purchaser has the money and access to lending resources, segregation is ending in many old housing units in metropolitan areas.

In contrast, where new housing is built with the help of the resources of the Veterans' Administration, the Federal Housing Agency, and other Federal agencies, there is an ironclad policy of building whole cities for whites only.

The classic example of this is found in Bucks County, Pa., in a development known as Levittown.

I hope the next time that any of you gentlemen go to New York you will just look to the left on the northbound train and see that huge sign which advertises "Levittown," a whole new city in Bucks County, Pa.

The builder of this development could not have done so without the aid of the Federal Government. To many he may be the example of a successful builder, but, in the eyes of minority group members who are denied housing by him solely because of race, he is a symbol of the encroachment of police-state methods in America.

In other words, he has, by his personal fiat, with the help of the Government, set up a rule in that town of several thousand people that you may bring a dog in, but you may not buy a house, if you are a colored man, even though you have the money.

Our contention is that he may have a right to do that as an individual, but he does not have a right to come in and get the Federal Government to help him to accomplish that kind of an un-American program.

The present policy of restriction in the housing field is a startling repudiation of all that the traditional supporters of free enterprise are supposed to stand for

I included this statement about free enterprise, because I think in the housing field the free enterprise banner is raised more frequently than in almost any field that I know of. Can anyone imagine the automobile industry restricting its sales to whites only? Can anyone imagine a man who wants to sell refrigerators ignoring a substantial part of his potential market simply because that market is not white? Yet this is exactly what is happening in the real estate and housing field.

Those who have new housing to sell or land that is available for development must give assurance to lending institutions and often to local government that the housing and land will be used for whites only. There is not a single top Federal official in the housing field who does not know that is happening, and who does not by action or failure to act help to continue it.

The current policy of the Housing and Home Finance Agency is to make a lot of noise about the existence of the problem but do nothing about it. The HHFA's approach to the minority housing problem is like shooting off fireworks to scare away evil spirits.

Again and again there has been pronouncements and meetings about the problem of minority group housing. Coming out of these meetings one is keenly aware of the fact that the Housing and Home Finance Agency believes that the solution to the problem of minority group housing is the building of more segregated housing rather than integration into existing structures

The latest report from the Housing and Home Finance Agency indicates that on May 16 Administrator Albert M. Cole announced that he would call to Washing-

ton representatives of 25 big Negro life insurance companies and banks in an effort to get more mortgage money into housing for minorities

I would like to say, gentlemen, there is a classic illustration of what I said at the beginning about this housing program being a hoax, so far as minority groups are concerned. The Housing and Home Finance Agency called in what it said were the big Negro insurance companies who had the finance with which to build houses. They told these men who came in that this would be an off-the-record conference.

These companies represent people who have assets of about $180 million. They have already got about 25 percent of their assets obligated for FHA mortgages.

In contrast, there are 14 big companies which have assets of about $55 billion. Nobody invited the $55 billion crowd in to find out how more money could be available, but they invited the colored people in who had $180 million, and who have already got about 25 percent of their assets tied up in these FHA matters.

During the course of the meeting, and also in the written invitation, Mr. Cole assured all of these men who came down, at their own expense, incidentally, that this would be an off-the-record meeting that there would not be anything done which would embarrass them in any way.

As soon as those men left town the Housing and Home Finance Agency got out a press release on this off-the-record meeting, a page and three-quarters, single type, about what went on in the meeting The whole purport of this release, which if the chairman will permit, I would like to leave for the record.

May I leave it for the record?

The CHAIRMAN. Yes.

(The information is as follows:)

HOUSING AND HOME FINANCE AGENCY, OFFICE OF THE ADMINISTRATOR

WASHINGTON 25, D. C.

JUNE 2, 1955.

Representatives of 16 Negro lending agencies from all parts of the country met in the Lafayette Building, in Washington, this week, at the invitation of Albert M. Cole, Administrator of the Housing and Home Finance Agency, and heard the Administrator ask for greater participation, on their part, in making FHA insured loans available to minority borrowers.

Mr. Cole pointed out that this conference was a part of a program he has already put into effect with other lending agencies, which have also been urged to increase their interest in making loans to Negro home purchasers. While he feels that there is still room for much improvement on the part of the large white insurance companies and lending agencies, he said that these conferences have definitely brought progress.

Declaring that a number of minority owned lending agencies are to be congratulated for their support, he said that most of them are not assuming their responsibility toward minority borrowers. The Administrator reminded the group that while "it is true that providing houses that are available to minorities is a social problem, it is also a financial problem which we must take mutual steps to alleviate"

He said that the rates, terms, and basis on which minority people are able to secure housing from white and minority lending agencies, in many instances, are not the same as those offered whites and that the minority-owned lending agencies, in particular, cannot afford to have a finger pointed at them as exploiters of prospective Negro home buyers. He spoke of reports, which the Government has received, which show some minority-owned lending agencies charging as much as 5 percent premium and 8 percent on mortgages.

Among the various reasons given by some of those in attendance for charging high rates was the claim that the Negro insurance companies are small and cannot afford to offer identical rates that large insurance companies offer.

"If Negro insurance companies went into the FHA mortgage business on a large scale, the low interest rate allowed by the Government would run us out of business," said one of the representatives.

The representative of another company claimed that high premiums and interest rates are levied because the mortality rate of the Negro is 10 percent greater than that of whites Some maintained that charging a high rate of interest is simply good business and others contended that the Negro public has not been conditioned to FHA insured loans

Norman P Mason, Commissioner of FHA, in emphasizing the statements of Mr. Cole, told of the educational job that the Government is carrying on to

convince white lenders that the Negro market is sound. Some of these institutions are no longer exhibiting the indifference that they have in the past.

"You have a responsibility to your country to interest your selves in FHA mortgages for minority families and it must be understood that today 80 percent of our offices process an FHA loan application in 14 days," said the Commissioner.

A secondary mortgage market was suggested by one of the financiers, which would make it possible for the lending agencies to originate a much greater number of mortgages and then in time sell them to the secondary market. He proposed that in a number of cities a group of Negro organizations raise a capital of $100,000 or more to be used for this purpose. This would open the door for the handling of many more mortgages, both conventional and FHA, by the lending agencies.

Dr. Gabriel Hauge, administrative assistant to the President, brought greetings to the meeting from President Eisenhower while Joseph R. Ray, assistant to the Administrator for Racial Relations, chaired the afternoon session.

Among those present were H. N. Brown, Atlanta Life Insurance Co., Atlanta; Maurice E. Collette, Berkeley Citizens Mutual Building Association, Norfolk; John T. Harris, Berean Building & Loan Association, Philadelphia; William R. Hudgins, Carver Federal Savings & Loan Association, New York City; R. O. Sutton, Citizens Trust Co., Atlanta; H. W. Sewing, Douglas State Bank, Kansas City, Kans.; A. L. Robinson, Quincy Savings & Loan Co., and Dunbar Life Insurance Co., Cleveland; L. C. Blount, Great Lakes Mutual Life Insurance Co., Detroit.

Also, M. Stewart Thompson, Home Federal Savings & Loan Association; B. Doyle Mitchell, Industrial Bank, Washington, D. C.; George S. Harris, Metropolitan Mutual Assurance Co., Chicago; Truman K. Gibson, Sr., and Earl B. Dickerson, Supreme Liberty Life Insurance Co., Chicago; Jefferson Beavers, Trans-Bay Federal Savings & Loan Association, San Francisco; and Val Washington, director of minorities division, Republican National Committee.

Mr. MITCHELL. The whole purport of that release is that the colored people weren't doing enough in the way of lending; that somehow this problem of colored people not getting housing could be laid at the door of these colored people, who only have $180 million in assets, instead of at the door of these people who have $55 billion in assets.

They even had a nasty little line in there where they said they had gotten some reports that colored people as lending institutions were charging more money in the way of interest rates than they should charge.

In other words, they made a blanket indictment of everybody who was present, without sufficient evidence to back it up, so that the net result of what they have done is to, again, make a lot of sound about what they hope to accomplish. Actually, they haven't done anything specific on the housing program so far as minority groups are concerned.

Let us suppose that these colored lending institutions do provide more funds. The immediate question which arises is what effect will this have on the segregated housing patterns in Levittown, Pa., or, indeed, in Montgomery County, Prince Georges County, and Arlington County, Va.? We might also ask what effect additional money will have on problems presented by slum-clearance programs which reducing the land space available to colored homeowners and renters in Baltimore, Md., Birmingham, Ala., Savannah, Ga., and other cities without adequate plans to see that the persons displaced are rehoused or given an opportunity to return to the area when it is redeveloped.

It is a very sad thing, gentlemen, to see people who have lived in certain areas for generations—I will mention Savannah, Ga., because that is an example. In Savannah there is an area known as the old fort area of that community. It has historical significance. A decision has been made to improve and redevelop it. A totally new public housing project has been built in Savannah They have demolished only part of the total slum area. The picture you see when you go into that area is wonderful housing available for white people on the land area which was formerly occupied by colored people, ringed by the most miserable-looking slum shacks that you could imagine, which are occupied by colored people. Again, that has been made possible solely because of the current policy of the Federal Government in the housing field.

We have placed this problem before Congress and housing officials and the President many times.

A comprehensive suggestion for providing a remedy was submitted to Raymond Foley, Administrator of the Housing and Home Finance Agency, on January 11,

1952. Mr. Foley and his aids took the suggestions under advisement. Nothing was done to correct the problem.

When the new Administrator took office, our organization met with him on March 15, 1953, to discuss the problem and to make recommendations for correction. During that year we had additional meetings with the Administrator on May 7 and July 22 It is significant that in the July 22 meeting seven major national organizations also urged the Administrator to act on this problem.

When the President sent his housing message to Congress on January 25, 1954, it contained a reference to the problem of minorities in the housing field as well as a promise that something would be done about it. Questions on what would be done have been raised with the President from time to time by various organizations, including the NAACP.

On April 7, 1954, Miss Ethel Payne, Washington correspondent of the Chicago Defender, asked the President in his press conference what was being done to implement the promise of his January 25 message. At that time he said he would look into the matter.. On May 5, 1954, the same reporter asked what had been learned when he looked into the matter, and the President suggested that she check with the housing agencies for her answer.

The New York Times of August 5, 1954, carried this version of what the President said at his press conference on the previous day when he was asked about minority housing policies:

"He had tried as hard as he knew how to have accepted this idea, that where Federal funds and Federal authority were involved, that there should be no discrimination based on any reason that was not recognized by our Constitution. He would continue to do that."

On August 11, 1954, the National Association of Real Estate Brokers asked President Eisenhower to instruct Government housing agencies to revise their policies so that Government-assisted housing would be open to all qualified persons without regard to race.

As is usually the case, when Government agencies are confronted with mounting displeasure from people who are the victims of an injustice, the Housing and Home Finance Agency has chiefly relied upon high-sounding conferences to sidetrack efforts to obtain basic correction.

One such conference was held by the Administrator of the Housing and Home Finance Agency on December 9 and 10, 1954. More than 40 leading organizations of the country were represented at that conference. The overwhelming majority of those present subscribed to these recommendations which were proposed by the National Association for the Advancement of Colored People.

"The role of Government in the national economy is to maintain a free and competitive market. To fulfill this function in the field of housing, the Government must require that builders, lenders, and any others who receive Federal aid of any kind for housing programs agree that renters or buyers will be denied such housing on the basis of race. This condition must apply to all Federal housing activities. This policy will require the following:

"1. All public housing must be open to tenants without regard to race. There will be no more 'white' and 'colored' projects. Tenant selection will be made on the basis of need for housing rather than on the basis of race."

I think this committee probably knows that there are many places around the country where public housing units are empty because they have been set aside for white people. Colored people need the housing but can't get in because these housing units, which were erected with Federal help, are for whites only.

"2. There will be contractual requirement that all housing and other facilities such as parks, playgrounds, or hospitals erected or developed on land assembled through loans or grants under the slum clearance and urban redevelopment program and the urban renewal program would be open to all renters, buyers, or users without regard to race."

I would like to say that in Birmingham there is a wonderful new program that they have got underway. The purpose of that is to expand hospital facilities—a wonderful purpose. It will also have additional park areas, but the Negroes who live in that area, which is to be cleared, will be moved out. Colored doctors may not practice in that hospital. If they have patients and want to get them in, a white doctor must make it possible for them to get into that hospital, which will be expanded under this program.

There are plans afoot to see that the parks which will be available will be for whites only. Certainly it is a wonderful thing to have this redevelopment. The President has said that he does not think that any of these programs which

are slum clearance should be used for Negro clearance. We think that is wonderful.

Now, they don't call it clearance. They call it renewal. In other words, instead of clearing the Negroes out they are going to renew them out of the area where they are going to have this program.

The recommendation we made here would correct that problem.

The third thing is:

"3. On all the housing on which there is FHA insurance or VA guaranty or a commitment for such insurance or guaranty, there shall be a contractual agreement binding on those who own the property or control the sale or rental of such property that there shall be no discrimination against persons seeking to lease, rent, or purchase such property on account of race, creed, color, or national origin.

"We believe that the above position is the only honorable and legal position that the Federal Government can take in this matter. It is also in line with President Eisenhower's policy of not permitting Federal funds to be used to promote racial discrimination."

At that time, the HHFA promised that in the near future there would be some action on the problem. To date, the chief action taken by HHFA is to endorse and support a program of segregated housing sponsored by the National Association of Home Builders.

I would like to mention that the National Association of Home Builders came up with a program which they said would obligate about 10 percent of their total construction for colored people around the country. It is estimated that that would cost about a billion dollars. Even if that program were acceptable, which it is not because it is a percentage program, if we tried to follow the program that Mr. Cole and his associates had talked about, of getting colored lending institutions to support it, their $180 million wouldn't be enough to finance that billion-dollar segregated program which Mr. Cole says is the solution to this problem.

The home builders have announced that they would attempt to set aside 10 percent of their new housing for minority group occupancy. In the fine print, however, the National Association of Home Builders has made it clear that this 10 percent will be built on "suitable sites." In other words, this housing will not only be segregated but it will also be built on land that nobody else wants. This usually means that it will be close to a rendering plant, the city dump, or an abandoned graveyard.

I was in Lake Charles, La., the other day. There I saw a new building program going up, which was supposed to be a wonderful thing for colored people. The first thing in it was a new school and right by the school was a graveyard. In other words, the least desirable land is always the land that they make available under these programs of segregated housing for colored people.

The Housing and Home Finance Agency has given a great deal of publicity to the so-called voluntary home mortgage credit program. In the 83d Congress this same problem was presented as it had been in previous Congresses. At that time the Administrator of HHFA quite properly went on record as opposing any program which would give any special treatment to colored people, and he also clearly indicated that the HHFA would wink at the special mistreatment accorded the colored homeseeker. He pledged that if voluntary efforts to solve the housing problem of colored people failed to produce results his Agency would explore other means of making funds available for minorty group housing. He did not promise that he would require lenders, builders, and others who benefit from the Federal program to open new housing to all without regard to race.

This is a very late date in the history of the human race to have a great nation such as ours set up special programs for one group of citizens. If the suggestions recommended at the December 9 and 10 conference were now in effect, the greatest part of the housing problem would be behind us.

The trouble with HHFA is that it does not want a proper solution to the problem. The real purpose of calling conferences such as that held in December and the meeting of lenders and real-estate men is to try to get some endorsement of a program for segregated housing.

We believe that legislation which will provide additional public housing units which will help to clear the slums and which will make housing available to the thousands of people who need it should be passed by Congress. But we also believe that this legislation should contain proper safeguards so that not

one penny of Federal money will be used for housing that will be segregated on the basis of race.

We point out that blame for failure to include this proposal cannot be laid at the door of the South. On the full 30-man committee there are only 5 members from the Deep South—that is, on this committee. The rest are from border, Northern, and Western States.

Therefore, we urge that the following amendment be incorporated in whatever bill is reported out by this committee:

"The aids and powers made available under the several titles of this act are not to be conditioned or limited in any way on account of race, religion, or national origin of builders, lenders, renters, buyers, or families to be benefited."

Mr. BROWN (presiding). Thank you, Mr. Mitchell.

Are there any questions?

Mr. BETTS. I think you mentioned in reference to this conference that Mr. Cole had—were you present?

Mr MITCHELL. I was present at the conference in December, Mr. Betts.

Mr. BETTS. Do you know whether or not there had been a conference called at any other time with those other insurance companies that you referred to?

Mr. MITCHELL. In the December meeting there were present some people from the mortgage bankers, some people from the home builders, and the real-estate groups. They didn't say anything much. The home builders offered this proposal of setting aside 10 percent of all the housing that they would build They, of course, added "if they could find suitable sites," which is really no solution There are two reasons for that. First, we reject the idea of having percentages for colored people or any other minority, and, second, if you wait for suitable sites invariably when a person says "I am going to build housing for colored people, or Chinese," or any other minority group, there are community groups which mobilize to keep that housing from being built.

Mr. BETTS. Do you know whether or not there was a conference called when those other insurance companies you mentioned that represent so many billions were present?

Mr MITCHELL. To my knowledge, there has never been a conference of that kind. Mr. Cole has addressed them from time to time on the total housing program. He has given them the statement saying "Well, if you don't start making some money available I am going to have to do something about this problem" But there has not been a conference of these $55-billion people similar to the conference of the $180-million people that I referred to

Mr. BETTS I think you mentioned the fact that there was some sort of segregation in home building with Federal assistance in Birmingham, Ala.

Mr. MITCHELL Yes, sir.

Mr. BETTS. You said that occurred under the current administration. What was the policy of the previous administration along that line?

Mr MITCHELL. As we said in our testimony, we have been trying to get official attention directed to this problem for a long time. I mentioned Mr. Foley, who was under the Truman administration, as Administrator of the Housing and Home Finance Agency. We got as far with him as we have gotten with Mr. Cole. That is, nowhere.

I certainly would not want anybody to think that we are saying that this is a failure because Republicans are Republicans, or because Democrats are Democrats. We are saying it is a failure because everybody wants to shunt aside this problem and talk in glorious terms about how they are going to meet the housing needs of the country, except the Negroes, they are going to just let them stand outside and take the scraps.

Mr. BETTS I thought you had that implication when you referred to the current administration It has always been a problem that has existed ever since there has been FHA; is that right?

Mr. MITCHELL. I want to repeat, underscore, emphasize, and reemphasize that I didn't mean in any way to say that this was a failure that was peculiar to the Republicans It is characteristic of both the Democrats and Republicans, I am sorry to say.

Mr. BETTS That is all.

The CHAIRMAN. Are there any further questions?

Mr. O'Hara?

Mr. O'HARA. Thank you, Mr. Chairman.

Mr. Mitchell, I think you have made a splendid contribution and you have highlighted a situation that exists, I think, in most of our urban cities of the North, very markedly so in Chicago. To a large extent the suburbs are build-

ing up around Chicago, people moving—mostly white people—from districts where the Negro population is increasing. I know you are familiar with the situation.

Mr. MITCHELL. Yes, I am, Mr. O'Hara.

Mr. O'HARA. Our big cities, as you have pointed out so forcefully, are in the process of rebuilding, and there is need that we keep in mind that, while a beautiful city is to be desired, the real purpose of housing is to provide decent roofs over the heads of human beings. The exodus to the suburbs is unfortunate because it takes people further from their worksites and also because of its relation to the segregation phase. There has been a fear in the minds of some good people—goodhearted people—that if a Negro family came in, the community was going to run down. There was that fear on the part of good people. Then there was experience. Negro families moved in. They kept their properties up to the measure of the community and they were good neighbors, and with experience the feeling of fear dissolved. I think we are approaching the happy day when no one will give any more thought to the color of a man's skin than that of his hat. But meanwhile we have a realistic situation to face in our big cities of the North.

There is an exodus of white families to the suburbs and an expanding concentration of Negro population within the cities themselves. This amounts to a continuing segregation, which is in conflict with the worldwide effort in the direction of integration.

In many of the urban improvements—and they are well motivated and they have a good purpose—the immediate effect is to destroy housing that has been occupied, and largely, by people of your race who couldn't pay high rentals, and then these families have to seek other homes, and we have this acute housing shortage, and there isn't any place for them to go.

I am glad in your testimony you have stressed this human phase. Discrimination is, I hope and pray, on its way out. I think in our country it has stemmed from poverty and misunderstanding. Your group now is going through what the group that I come from, the Irish, went through. They were poor. There was a discrimination against them. I can remember when the Polish people came in large numbers. They were poor. It has been the same with all groups. At first they resided largely in their own communities, in a sense segregated, and then as conditions improved that broke up, and I think those are the conditions you have to meet and the changes you may expect.

In my young manhood the only place that a Negro family could find for residence in Chicago was the territory adjacent to the then notorious 22d Street, and a Negro mother had to bring up her children on the fringe of an area of brothels.

It is a marvelous progress that has been made. I think that we are making progress because good people of both races are working together in a spirit of brotherhood and with respect for the rules of decency and the concepts of religion.

My position is, always has been, and always will be to the end that discrimination of any sort on the lines of color, race, religion, or station, is destructive of the individual and of the state. In my last campaign the people of my district upheld my position that as a Member of Congress it was my duty to represent all my constituents without any taint of discrimination or of special favor. I am glad that I have the honor of representing a constituency whose watchward is decency.

I think you have made a valuable contribution to these hearings by giving us the results of your studies, your observations, and your suggestions.

Mr. MITCHELL. I wish I could have said it that simply and briefly. I guess other people here wish I had been as brief, too, but in any event I want to thank you for what you have said.

I remember what happened in your campaign. I am not a person who is identified with any political party. I happen to be a voter in Maryland. I am an independent, and I vote for people on the basis of merit rather than party. Our organization takes a similar stand. I think the people of Chicago ought to be congratulated that they did not pay any attention to those appeals to bigotry that were raised in your campaign. I am glad that those who raised them found that it didn't pay off politically.

I think that one of the terrible things about the city of Chicago is that this movement of the Negro population is not a spontaneous thing. What happens in Chicago, or what happens in a great many other urban communities, is that certain real-estate interests decide that they are going to convert an area to a Negro area, or white area, or Jewish area, or some other kind of area. Then they begin selling a few homes in the area to people who are in need of

housing, who happen to be identified with a group they say must have that area. Thereafter representatives of those real-estate people go around from house to house and say, "You know Negroes are moving in this area, you had better get out," or some other kind of nationality is moving in, you had better get out. In fact, a curious thing is happening in Chicago right now. At one time the cry was, "Negroes are moving into the area, you had better get out." A lot of colored did move in and whites moved out. Now, they go and say, "Puerto Ricans are coming in, you had better get out to some other place."

Mr. O'HARA. When the Irish came, they said get out, and the same for the Jewish people and others. We have all gone through it. What we want is that there shall not be any place in our wonderful America for a taint of discrimination.

Mr. MITCHELL. Except, Mr. O'Hara, in this case there is a difference between the day that it was happening to the Irish and now that it is happening to other groups. In those days there wasn't the vast resource of the Federal Government behind those who wanted to discriminate. Today there is. In Chicago, in New York, Washington, or whatever other city this program operates in, the credit, resources, and full faith of the Federal Government, by the policies of the Housing and Home Finance Agency, are placed behind those who want to discriminate. That is a fearful weapon for achieving the segregation.

Mr. O'HARA. That is why I think it is helpful for you to be here today as a spokesman on phases of our housing program that otherwise might not have been brought out.

Mr. MITCHELL. Thank you.

The CHAIRMAN. Are there further questions?

Mr. MULTER. Mr. Chairman.

The CHAIRMAN. Mr. Multer.

Mr MULTER. Mr. Mitchell, I think you know what my position has been with reference to legislation of this kind, and I don't think it is necessary for me to explain that position, but in view of the discourse between you and Mr. O'Hara I think maybe I ought to say a thing or two, and then point this out to you.

New York State is one of the few States where we have a Fair Employment Practice Act which prohibits discrimination in employment. The first job I got just after high school was in a bank. I was told by my bank manager, who took a liking to me, if I wanted to stay in banking and make it my career I had better change my first name, and I asked, "Why should I change my first name?" He said, "It is distinctly Jewish, and there is no place in the banking field for a Jew."

I took his advice and changed my career. I entered law school. The first job I applied for in a law office was by answering a blind ad and a letter came back to me saying "You may call for an interview Monday morning, if you are not Jewish."

It was a large Wall Street law firm that wrote me that letter in 1918. Now, we have an FEPC law, a very strong, compulsory, good law. Yet there are still law firms and banks in the city of New York who won't take a lawyer who is a colored man or a Jew, nor is a person given an important post in a bank who is colored or a Jew. I can't recall a big bank in the city of New York where there is a colored man in a high place in a bank or for that matter in a large law firm.

Mr. MITCHELL. The chairman of our board, Dr. Tobias, is a member of the board of directors of one of the banks in New York.

Mr. MULTER. I am glad to hear it. It is the only instance I know of. I know many good lawyers who are colored men, some very fine judges, and they are among the best of the lawyers on the bench in New York. None of them were placed by any large law firm in New York in a responsible position. Yes, most of them will say they are not discriminating. Here and there they will take on a Jew or colored man and keep him on for a while, and then find some excuse to get rid of him. Instead of moving him on up because of his ability they move him on out.

The point I make is despite that law they still discriminate in the State of New York, and they will elsewhere, too, and they will do it in the housing field, too.

Now, if we have got that kind of situation in New York—and you have got it throughout the country against minority groups—you have got it in officialdom, who, while complaining about how nondiscriminatory they are, they have their own means and tests of finding out who you are and what you are, and what they will do with you, and whether they will take you on as a blind for a little while and then let you go.

With the United States Supreme Court decision in the school situation, you need no legislation. I know there are those who say, well, that applies to

schools—but I think that lays down the principle as enunciated in our Constitution, a principle that must be followed nationwide in employment and education and schools and in housing.

You recall the other day we were considering an important bill, the Reserve bill—the military forces Reserve bill—and a provision was written into the bill on the floor against discrimination. I think you will agree with me there is less discrimination in the Armed Forces today than there has ever been. We have done a pretty good job of integration in the Armed Forces. You will find an officer here or there who is going to kick around the minority man he doesn't like, but by and large they are doing a pretty good job.

They wrote into the bill on the floor a provision against segregation in the Armed Forces, and the bill died.

Now, the point I am leading up to is, will the same thing happen here? We need the housing. If we don't extend the law the whole program comes to an end. I would like to see this provision written into it. You remember when I offered this provision, not only to the committee but on the floor? Are we going to gain more by continuing the housing program and trying to weed out the officials in charge of the program who will discriminate. Even if we write it into the law as I pointed out, just as we have discrimination in employment, despite the finest law you can put on the books, both in law, banking, housing, and everywhere else—we just amended the housing law in the State of New York against discrimination, and made it apply even to FHA housing—we won't eliminate all discrimination.

If there is any executive support to the program everywhere along the line there will be no discrimination.

You and I as practical men know that if you don't get the right people to administer that program they are going to get around it. They will evade it and avoid it. Shouldn't we extend this law without this provision, rely on the Supreme Court's enunciation of the principle, and work to get better men and women in charge of these programs who won't discriminate?

Mr. MITCHELL. Mr. Multer, I would like to answer you and I hope that I can.

First, I certainly would not agree that the New York fair employment practice law has not been effective. Anybody who thinks that it has not been effective has only to go to Macy's Department Store. I do it every time I go to New York. Whether I am going to buy anything or not, I just walk through the store and see democracy in action; all of those people of different races and creeds working side by side in harmony. When you pick up the telephone in New York to make a call it no longer may be that you would just get a white person answering that phone. You would get an American, regardless of race or religion. It is true that in the banks even there are people working. A young man who used to work for me is now on Wall Street working because of the fair employment practice law. So the first thing I would say with reference to the FEPC law is I think it has been effective. Of course, there will be some people who will violate it. Eventually they will be caught up with and eventually it will be completely successful.

The next thing I would like to point out is with reference to what you said about the Supreme Court decision on the school cases. It is true the Court gave a decision in the school case but the Court has given other decisions on housing. There was a time in the history of this country when, in Louisville, Ky., Richmond, Va., Baltimore, Md., there were city ordinances which said that a colored man would have to live in a certain section of town. The Lee Street Methodist Church in Richmond, Va., has two entrances. The only reason why they have two entrances in that church is because when Negroes first bought it there was a city ordinance which said they couldn't go in the door that was on that street. So they had to tear out part of the wall and build another entrance to the church in order to get around that ordinance.

A Baltimore judge ruled that a white man had as much right to a Negro living next door to him as he had to have a horse stable beside him The courts have struck down such ordinances on the ground that the States may not have that kind of regulation. Today those regulations do not exist except in areas where the tax resources of the Federal Government under the housing program are used for the purpose of building segregated housing.

In other words, the Court ruling has been completely successful except where the Government under the present program steps in and tries to tear it down.

We have had the problem of restrictive covenants. Again and again we have had the difficulty of Negroes buying homes. There was a young friend of mine right here in Washington, a schoolteacher, who bought a home prior to the

war. His wife, two children, were fine, respectable people. They could not live in that home because there was a restrictive covenant on it which said that even though a Negro owned it he couldn't live in it.

The courts have struck that down by saying that you can put a restrictive covenant on property but you can't enforce it in court. The result is that colored people are able to buy in any neighborhood where there is existing housing, if there is a willing seller, and if they have the money to buy. The Federal Government has done the thing which the courts, we believe, prohibit, and that it, as an arm of government, has said that it will promote and extend racial segregation. The Court has said you can't enforce segregation through the courts, and it is not being enforced through the courts. It said that the legislatures may not have segregation, and the legislatures do not have segregation in the laws, but the Federal Government contends that as an administrative arm of government it is not reached by these court decisions and, therefore, they continue to segregate.

Now, Mr. Betts, you raised a question a while ago about whether we brought this problem up before the Democrats. We certainly have. I am glad Mr. Multer mentioned it, because it gives me an opportunity to tell you what happened when we did

Mr. Multer was on the floor, and I believe Mr. Javits, the present attorney general of the State of New York, a great liberal, offered an amendment which would have accomplished the purpose that we seek here Mr. Multer read into the record some correspondence from Mr. Bovard, who was the counsel for the FHA. The burden of that correspondence was that "we don't need this amendment because we can handle it by administrative procedure."

This was the time when the Democrats were in power.

Then after the amendment was defeated on the floor, because FHA said that they could handle it by administrative regulations, we went to FHA FHA said "There is nothing we can do about it because if we do Congress will cut our appropriations and make it tough for us." In other words, it is just a vicious circle.

Mr. MULTER. I offered that amendment on the floor the next year.

Mr. MITCHELL. It was also attacked on that same ground by those who didn't want it, Mr Bovard and the others, as I remember it.

You also mentioned the matter about the Reserve training program. I think one of the most awful things that anybody could mention is the fact that young men and young women are asked to go to defend their country and at the same time are asked to do it on a segregated basis. It is impossible for any reasonable person to believe that we are in such great danger, and we need all this big Reserve program, if there are going to be selfish people who will defeat it simply because it contains an amendment which says that all people may serve with dignity and honor I would say, in answer to that question about this legislation, if attaching an amendment which says that the credit and the faith and the resources of the United States may not be used to advance segregation is the reason for killing a housing bill, then it is apparent that the housing program is not necessary in this country. Because if it really is necessary the local prejudices, the local opposition, will be subordinated to the larger interests of the country.

Mr. MULTER I will agree with you they should be subordinated. I think it was pointed out on the floor the other day that no colored person has ever been court-martialed for treasonable activity while in the services of our country. I believe that is true. Yet there are still some people who would give up the necessity for Reserve forces for this country if they can't have their way with reference to the colored people

I agree with you that they should put national interest and national security and their own security and that of their children first when it comes to the defense of the country, when it comes to the welfare of the country, and housing is part of the welfare of the country Without decent housing you can't have a decent country

Unfortunately that is not the thinking of some Members, at least on the House side I don't know what happened on the other side. That is what happened here.

I am wondering whether or not we should take the risk and let the housing program die, or rely on ousting from Government office anyone who will not go along with the clear intent of the Constitution as declared by the Supreme Court from time to time, and as declared by our Presidents from time to time?

Mr. MITCHELL. In this case, Mr. Multer, you would have to oust the head of the Housing and Home Finance Agency. He is the person who has not made the decision that this program should be put into effect, and I am sorry to say——

Mr. MULTER. I don't think it is necessary to oust him in the first instance. I think it is necessary for the President to send for him and say "This is my program and you are my Administrator, and that is what you must do. If you can't do it then get out."

Mr. MITCHELL. That is what I was getting ready to add. I am sorry to say that there is a considerable volume of evidence to indicate that not only is the action of the Housing and Home Finance Administration acceptable to the White House, but it has been supported and insisted upon by the White House. I don't believe there is a scintilla of evidence to show that the White House supports the program of saying that the Federal Government must not be used to promote segregation in housing. So if we start talking about putting people out who don't live up to this policy that is clearly what the Constitution requires, we would have to make an extensive housecleaning.

Mr. MULTER. I said many times to my colleagues, on and off the floor, that the problem that concerns me is not so much the problem in the South. Of course, they have a problem, but I said that this problem is even a bigger problem in the North.

Am I right or not about that? Don't we have just as much if not more discrimination in the North than we do in the South?

Mr. MITCHELL. I was in Jackson, Miss., not so long ago. On the street where I had breakfast one morning colored and white people lived together in complete harmony. They will continue to live together in complete harmony on that street until the Federal Government comes in with a program of slum clearance and redevelopment under which they will tear down all those houses.

I don't think they would tear those houses down because they are very good houses—under which they tear down all those houses and say "We will build something which will be for whites only and the colored people will have to move on."

I certainly agree it isn't a problem peculiar to the South. It is a nationwide pattern. We might as well face up to it. The only way we will correct it is either by the Congress doing its duty or the Chief Executive being very clear and certain about doing something about it.

Mr. MULTER. Thank you.

The CHAIRMAN. Are there further questions?

Mr. VANIK. Mr. Mitchell, I would like, going back to your statement—and I want to make my questions business questions so we can expedite the hearing—with respect to your statement about the Bucks County situation, the Levitt project, is it your idea that the minority groups are excluded only in the first building. The resale certainly wouldn't have a preclusion?

Mr. MITCHELL. They are excluded in the first building and in the resale. When a resale takes place, it is usually controlled by the person who is builder and seller of the house.

Mr. VANIK. Is there that kind of control in Levittown on the resale?

Mr. MITCHELL. Yes, sir.

Mr. VANIK. Then, in your opinion, there should be some legislative action or administrative action to guarantee that in a resale there should be no covenant that would prescribe anyone having any control for resale?

Mr. MITCHELL. What exists now, Mr. Vanik, is that under the regulations no one may put a covenant on housing which is FHA-insured, in writing. But there are oral agreements that housing will be for white people or colored people. That is what is happening.

Mr. VANIK. How is the resale of the Levittown project house controlled?

Mr. MITCHELL. Mr. Levitt, the builder, is the one who has control over who lives in that area. A person who wants to sell, if it is known that he is going to sell to a colored person, is approached and all sorts of pressures are used to try to keep him from selling.

Mr. VANIK. Those are extraordinary pressures, outside the law, aren't they?

Mr. MITCHELL. That is right. I would like to make it clear that we believe and we urge that this protection not only be on resale, but housing that is built initially. It seems even more important that it be on housing that is built initially.

Mr. VANIK. How would your amendment, in which I see great merit, curb these extracurricular or extralegal maneuvers on the part of someone like Mr. Levitt to control his project?

Mr. MITCHELL. It would mean that if Mr. Levitt was going to build a project, he would have to assure the Federal Government that when people, that is, if he got FHA assistance, that when people came to rent a house, he wouldn't look at what color they were, but he would look at whether they meet certain standards he is asking of all standards, whether they can afford it, whether they would be desirable, and so forth.

Mr. VANIK. Suppose he gives us his promise, administrative promise. What control will you have over it?

Mr. MITCHELL. It would seem to me whatever other way you have of enforcing the provisions.

Mr. VANIK. Other than by denying future loans?

Mr. MITCHELL That would be one very clear way. Then other controls that are part of the law would apply in this case, such as you violate any section of it. The Government would be in a position to take action against you.

Mr. VANIK. Once the builder has the loan money, it can't be taken away from him I wondered what means could be used by the Housing Administrator, or whatever other responsible official might be involved, to procure an enforcement of such a rule.

Mr. MITCHELL. It seems clear that in that case if this law were in effect and Mr Levitt said to a qualified person he couldn't have the house, the housing agency would have the authority to overrule Mr. Levitt on that and say that a person could occupy the house.

Mr VANIK. In other words, you would have to provide some further legal machinery for an appeal so that a purchaser could go to some agency and make his complaint?

Mr. MITCHELL. As we see it, the machinery would be made automatically available if this amendment were part of the law. It would be the same machinery that is used for enforcement of all parts of the law.

Mr VANIK. With respect to the projects to which you referred down in Georgia, the redevelopment projects, isn't it true that the 1954 act has already provided that the displaced people must be rehoused? We went through that problem in Cleveland and I think it is one of the things we had to insure, that the displaced people would be rehoused as an integral part of our application for urban renewal or redevelopment. Isn't that true?

Mr MITCHELL That is supposed to be part of the law and part of administrative regulations. As a practical matter, what happens today is when an area is to be redeveloped, very little is known about what happens to the people who are displaced. I have sat through conference after conference in the housing agencies where they tried to explain what happened to people. The most I have seen them able to account for is about 25 or 30 percent of the people who were displaced.

Generally, they don't know what happens to most of the people. They double up and go to live in other slum areas.

Mr VANIK. I wonder if your amendment will assure that they will be rehoused?

Mr MITCHELL We think it would. We would welcome any suggestions on how it should be strengthened.

Mr. VANIK I have another question.

In your judgment, then, there isn't much likelihood of an administrative order being issued that could take care of this problem; isn't that correct?

Mr MITCHELL I am sorry to say that is true. I feel even less like there is going to be one after what the President had to say in his press conference yesterday.

Mr. VANIK. Relating to the manpower bill?

Mr. MITCHELL When somebody asked about the manpower, and on a general subject of segregation amendments, or antisegregation amendments, as you may recall, the President said that he thought these programs ought not to be clouded with these extraneous issues. I don't see how you can call a thing extraneous when, as in the case of the manpower bill, on May 18, 120 Members of the House voted for that amendment; on May 19, 161 of them voted against having it taken out of the bill. It seems incredible that anybody would say that this was an extraneous amendment that was supported by so many members of a qualified body of Government.

Mr. VANIK For that reason you feel that the legislation is absolutely necessary, because the administrative policy would not bring about that result, or would probably not create the regulations?

Mr. MITCHELL. What we have tried to set forth, Mr. Vanik, is that over a period of years we tried to get administrative relief. We believed we could, but we haven't gotten it.

Mr. VANIK. Do you believe that the recommendation of 35,000 housing units is going to be adequate—the recommendation that has been made by the administration? Of course, the Senate has taken a different slant on it. What is your point of view on that?

Mr. MITCHELL. I would say I think the Senate's figure is a little more in keeping with what everybody believes is necessary.

Mr. VANIK. How, in your opinion, has the Voluntary Mortgage Loan Organization facilitated in any way the lending of money or provisions for lending of money to minority groups?

Mr. MITCHELL. It is strictly a paper program. I think they have made some 200 or more——

Mr. VANIK. 201 loans.

Mr. MITCHELL. Loans under that program, but so far as I know, very few have been for minority groups. The Housing Agency made an announcement when it made a loan to a colored man in Washington. It had a big news release on it and had a picture. It turned out there wasn't anything controversial about it. The man lived in a neighborhood where colored people were already living and apparently could have gotten aid from another source. In other words, it is sort of a hoax.

Mr. VANIK. In Cleveland they haven't made one loan, and I know there are thousands of applications.

Would you favor a more liberal FHA lending procedure by way of more realistic appraisal on older property so older property could be more readily acquired?

Mr. MITCHELL. We certainly would. We find in some instances FHA appraisals are such that make it difficult for a person to get financing on a desirable house. It would be better to have a more liberal policy.

Mr. VANIK. I think that covers my questions.

The CHAIRMAN. If there are no further questions, you may stand aside, Mr. Mitchell. Thank you.

Mr. MITCHELL. Just one final thing: You asked whether we have instances of violence coming from the State of Massachusetts. I think you know, and I am happy to say, that I know that in the State of Massachusetts, it is the public policy to proceed against that kind of thing. Nevertheless, there have been instances in which synagogues have been desecrated and other things have happened, contrary to our concept of religious freedom and respectful practice and things of that sort. The great difference between the State of Massachusetts and the State of Georgia is that in the State of Massachusetts, they move to prosecute the offender whereas the State of Georgia loses them in a fog, and is unable to find the perpetrator of such crimes.

Mr. LANE. May I say again that in the State of Massachusetts, we will always prosecute anybody who engages in such practices; we have done so in the past, and we always will in the future.

Mr. MITCHELL. Thank you very much.

STATEMENT OF WILL MASLOW, GENERAL COUNSEL, AMERICAN JEWISH CONGRESS

Mr. LANE. Our next witness is Mr. Will Maslow, general counsel, American Jewish Congress.

Mr. MASLOW. Mr. Chairman, I have a very long statement, but instead of reading it, I would like to have permission to turn it over to the reporter and ask that it be made a part of the record, and I will merely summarize the statement and jump off from the statement as such.

Mr. LANE. We will be glad to have you do that, Mr. Maslow, and I appreciate your consideration of the committee. There is a very important bill up in the House today, highway legislation.

Mr. MASLOW. Thank you, Mr. Chairman.

(The statement referred to follows:)

STATEMENT OF THE AMERICAN JEWISH CONGRESS PRESENTED BY WILL MASLOW, GENERAL COUNSEL, ON CIVIL RIGHTS BILLS

The American Jewish Congress appreciates this opportunity to present to this committee its views on the civil-rights bills this committee is now considering. The American Jewish Congress is an organization of American Jews which has long been concerned with efforts to attain the goal of full equality for all Americans, a goal implicit in the philosophy of our institutions but not yet fully attained. We have participated, with other organizations, in the drafting of much of the legislation before this committee, and our representatives have frequently appeared at congressional hearings considering these and other bills.

I. INTRODUCTION

In this statement we summarize the history of civil-rights legislation in Congress since 1875, describe the civil-rights bills that have been introduced in the House of Representatives during the current session of Congress and discuss their relative values. On the basis of this discussion we suggest what we believe is a reasonable program in support of civil rights in the present Congress.

The pending bills are listed in the appendix to this statement.

At least 95 civil-rights bills have been introduced in the House of Representatives at this session of Congress[1] This hearing has been called specifically to consider 51 bills that have been referred to the Committee on the Judiciary. These bills deal with a number of subjects, including lynching, peonage, the right to vote, strengthening our existing civil-rights laws, establishment of a Civil Rights Division in the Department of Justice, and establishment of a permanent Civil Rights Commission. Some of the pending bills combine a number of these subjects

At least 44 other bills dealing with one or more aspects of civil rights have been referred to the various committees of the House This includes 10 bills on discrimination in employment (referred to the Committee on Education and Labor), 11 bills on the poll tax (House Administration), and 15 bills on discrimination in transportation (Interstate and Foreign Commerce).

The introduction of such a large number of bills by 21 Members of the House reflects widespread recognition of the need for action to protect the civil rights of American citizens It reflects also a belief that legislative action by the United States Congress can contribute to attainment of the goal of full equality. Finally, it reflects the optimism born of the great progress that has been made toward that goal in the past 10 years.

One might assume that introduction of all these bills also indicates a belief that there is a chance that some of them will become law. That belief can hardly be entertained by anyone who is familiar with the record. Lest there be any doubt on that score, we shall review that record briefly.

II. PAST FAILURES

No Federal civil-rights law has been enacted since 1875 In that year, Congress approved the last of the post-Civil War laws designed to ease the restrictions placed upon the liberated Negro slaves by the so-called black codes of the Southern States. Continued discrimination against Negroes since that time has frequently prompted efforts to attain additional legislation. All those efforts have failed

In 1890 the widespread use of fraud and force to deprive Negroes of the right to vote led to introduction of a Federal elections bill. It was approved by the

[1] The term "civil-rights bills" means bills primarily designed to achieve intergroup equality. For the purposes of this memorandum, we have excluded bills dealing with immigration and nationality, American Indians, statehood and self-government, and loyalty, national security, and other matters affecting freedom of expression. We have also limited the memorandum to bills dealing primarily with civil-rights issues, consequently excluding general bills containing antidiscrimination clauses.

House of Representatives. In the Senate it was met by the first of a long series of filibusters that have prevented the Senate from considering civil-rights measures on their merits. Supporters of the bill did not yield to this undemocratic weapon easily on this, its first appearance. Thirty-three days of debate took place before they accepted defeat.

A steady increase in lynchings at this time prompted President Harrison in 1892 to call for Federal antilynching legislation. The first such bill was introduced in 1900. It died in committee as did similar bills introduced during the next 20 years.

Meanwhile, abuse of the privilege of unlimited debate in the Senate reached a peak in 1917, on the eve of our entrance into World War I, when filibusters blocked enactment of defense measures deemed vital by the administration. This led to adoption of the first cloture rule in the Senate. The new rule permitted termination of debate in the Senate on any pending measure by a two-thirds vote of those present.

In 1920, a House committee favorably reported an antilynching bill and in 1922 such a bill progressed to the point of approval by the House itself. However, it was blocked by a filibuster in the Senate. Antilynching bills passed by the House were thereafter killed by Senate filibusters in 1935 and 1940. The House approved anti-poll-tax bills five times between 1942 and 1949 but all were killed in the Senate by filibusters or threats of filibuster. The same fate met a fair-employment bill in 1946.

In October 1947, the President's Committee on Civil Rights, headed by Charles E. Wilson, president of General Electric, issued its report, To Secure These Rights. It explicitly endorsed enactment of antilynching, fair-employment, and a number of other Federal civil-rights bills. In February of the following year, President Truman submitted a 10-point civil-rights program to Congress. It was plain that the issue of full equality could no longer be ignored.

By this time, it was also plain that the cloture rule in the Senate had not achieved its aim: to prevent blocking of legislation by "a willful minority." From 1917 through 1950, 21 cloture petitions were filed but only 4 received the necessary two-thirds vote. No cloture petition on a civil-rights bill had ever been successful and innumerable civil-rights bills had died because the mere threat of a filibuster was sufficient to prevent debate in the Senate even from starting.

However, worse was yet to come. In 1948, a ruling by Senator Vandenberg, then Presiding Officer of the Senate, weakened the cloture rule still further. He held that the rule by its terms applied only to debates on a pending measure. Hence it was not available during debate on such procedural matters as a motion to consider a bill. This left the Senate with no effective procedure to limit debate.

An effort to reverse this ruling in 1949 was voted down. Thereupon, a compromise reform of the cloture rule was adopted. On the one hand, the number of votes required for cloture was raised from two-thirds of those present to two-thirds of the total membership of the Senate. On the other hand, the rule was made applicable to all matters. However, this concession had one significant exception; cloture was barred altogether on any motion to change the Senate rules.

The new rule was put to a test in 1950 after the House passed a greatly modified fair-employment bill. In 2 votes in the Senate, cloture petitions received large majorities but fell short of the 64-vote requirement of the new rule.

Since 1950, no civil-rights bill has been approved by either Chamber of Congress. An unsuccessful attempt was made at the beginning of the 1953 session of Congress to liberalize the cloture rule. Even this effort was abandoned in the present Congress.

III. THE BILLS PENDING BEFORE THIS COMMITTEE

While this dismal record gives no basis for optimism as to the chances of any of the pending bills, we shall set forth briefly, for the record, their terms and relative importance.

A. Perfecting existing civil-rights laws

One group of 20 bills proposed only small changes in existing Federal civil-rights statutes. These in turn may be divided into three groups.

1. *Peonage.*—Seven bills would amend the laws on peonage and slavery. Six of these are identical (H. R. 3394, Barrett; H. R. 3420, Davidson; H. R. 3481,

Roosevelt; H. R. 3567, Chudoff; H. R. 3581, Diggs; H. R. 3344, Reuss) and the seventh differs from these only slightly (H. R 628, Celler) The chief effect of these bills would be to make attempts to hold or place a person in peonage or slavery a crime.

2 *Elections*—Six identical bills would increase Federal protection of the right to vote (H. R 3390, Barrett; H. R 3419, Davidson; H R. 3476, Roosevelt; H. R. 3569, Chudoff; H. R. 3582, Diggs; H. R 3343, Reuss). They would amend 18 United States Code 594, which prohibits interference with the right to vote in Federal elections, to make plain its application to special and primary elections as well as general elections They also would amend 42 United States Code 1971, which prohibits denial of the right to vote in any election on the ground of race or color, by making clear its application to discrimination in the right to qualify for voting Finally, they would permit suits for damages and to restrain violations of these two sections by either aggrieved parties or by the Attorney General. Suits could be brought in Federal or State courts.

3. *Interferences with Federal rights.*—The third group deals with the broader protections provided by sections 241 and 242 of title 18 United States Code. These are five identical bills (H. R 3387, Barrett; H R. 3421, Davidson; H R. 3474, Roosevelt; H. R. 3566, Chudoff; H. R 3580, Diggs), one that differs from these only slightly (H R 5349, Reuss) and a seventh that is somewhat more limited (H. R. 258, Celler). The bills would amend section 241, which prohibits conspiracies to interfere with Federal rights, by (*a*) making it applicable to all inhabitants of the country rather than to only citizens, (*b*) prohibiting the interference itself as well as the conspiracies covered by the existing law, and (*c*) adding to the criminal penalty of the section a provision permitting aggrieved persons to sue in the Federal or State courts

The bills would amend section 242 of title 18, which prohibits deprivation of rights under color of law, primarily by adding to the present penalty of a $1,000 fine and/or 1 year in jail a higher penalty where the wrongful conduct results in the death or maiming of the person wronged

Finally, the bills would add a new section, 242A, specifying some of the rights protected by section 242 The purpose of this addition is to assist prosecuting attorneys in meeting the requirements laid down by the Supreme Court in the Screws case (*Screws v United States*, 325 U S 91).

Little need be said about these three sets of bills All the changes they propose meet specific needs whose existence has been recognized by the Department of Justice and legal commentators. Except for the obstinate minority opposition to any effective action to preserve equality, they would be enacted with little debate as necessary measures to plug up demonstrated loopholes in our penal code Such enactment would improve the effectiveness of Federal protection of constitutional rights, though it cannot be said that it would effect a major improvement.

B. Lynching

There are seven antilynching bills before this committee. Five are identical (H R. 3480, Roosevelt; H R. 3563, Chudoff; H R. 3575, Davidson; H. R. 3578, Diggs, H. R 5345, Reuss) and somewhat more detailed than the two introduced earlier in the session (H R. 259, Celler, H. R 3304, Dollinger). All of these bills are broad antilynching bills; that is, they apply not only to Government officials who participate in or permit lynchings but also to private citizens who are members of lynch mobs In past years, narrower bills have also been introduced applicable only to Government officials and those acting in concert with them. No such bills have been introduced in the House this year.

H R 3480 contains extensive findings establishing a basis for Federal action against lynching It defines lynching as any concerted action by two or more persons to commit violence against any other person or his property because of his race, religion, or national ancestry or to commit violence designed to exercise the power of punishment over a person in official custody. Punishment would be imposed on members of lynch mobs and on government officials who culpably fail to prevent a lynching The United States Attorney General would be required to investigate lynchings. Persons injured by lynchings or their next of kind could bring suit for damages against the guilty parties or against the Federal or State Government body having jurisdiction over the place where the lynching occurred.

Antilynching bills were first introduced in Congress many years ago when the practice of lynching was outrageously widespread. Today the open lynch mob is no longer a serious problem The last death by lynching occurred in the United States in 1952 It is true that these bills apply even where no death results but even this form of mob violence is relatively rare.

There has been a change in the nature of violence designed to perpetuate inequality. The chief problems today are brutality by police officials and clandestine violence, such as the Christmas night murder of Harry T. Moore and his wife in 1951 and other bombings and acts of arson. Neither of these evils is reached by the present bills.

We believe that antilynching legislation is no longer an important item in the civil-rights struggle.

C. Commission on Civil Rights

Six identical bills would establish a Commission on Civil Rights in the executive branch (H. R. 3388, Barrett; H. R. 3422, Davidson; H. R. 3475, Roosevelt; H. R. 3568, Chudoff; H. R. 3579, Diggs; H. R. 5351, Reuss). The Commission would have five nonsalaried members appointed by the President with the advice and consent of the Senate. It would gather information about civil rights, appraise Federal policies and other factors affecting the enjoyment of civil rights, assist Government agencies, and recommend Federal legislation. It could hold public hearings and issue subpenas to require testimony at such hearings. It would have a salaried director and other necessary staff.

We believe that establishment of such a commission would serve a useful purpose. First, it could give publicity to the facts concerning civil rights, any improvements that may have been made, and the areas where correction might be most urgently needed. Second, it could make disinterested and consequently influential recommendations for action by the Federal Government. Third, it could give valuable advice and assistance to State and local agencies as well as to private groups.

D. A Civil Rights Division

Six identical bills would replace the present nonstatutory Civil Rights Section of the Department of Justice with a permanent Civil Rights Division headed by an Assistant Attorney General (H. R 3391, Barrett; H. R. 3418, Davidson; H. R. 3478, Roosevelt; H. R. 3571, Chudoff; H. R 3583, Diggs; H. R. 5350, Reuss). These bills would also authorize an appropriate increase in the staff of the FBI and provide for training of FBI personnel in the investigation of civil-rights cases.

This reform has long been advocated by civil-rights groups and was specifically recommended by the President's Committee on Civil Rights.

E. Combination bills

There are six identical bills that combine a number of limited civil-rights objectives (H. R. 3389, Barrett; H. R. 3423, Davidson; H. R. 3472, Roosevelt; H. R. 3562, Chudoff; H. R 3585, Diggs; H. R. 5348, Reuss). These bills include the terms of all the bills described above except those on lynching. The provisions they contain on these subjects are the same as in the separate bills. Two additional items are also covered: creation of a joint congressional Committee on Civil Rights and prohibition of segregation in interstate transportation. These aspects of the bills are described below under those two headings. A seventh bill covers the same ground except that it omits the proposed amendments to the antipeonage statutes (H. R. 627, Celler)

A different combination of items is made in another bill (H. R. 5503, Anfuso). It includes the provisions described above on lynching and establishment of a Civil Rights Commission with the proposals for fair employment and anti-poll-tax legislation described below.

Two pairs of identical bills would deal with almost all pending civil-rights issues. The first two (H. R. 389, Powell; H. R 3688, O'Hara) contain detailed findings of fact on the need for Federal action to protect civil rights. They would create a permanent Civil Rights Commission and a Civil Rights Division in the Department of Justice in terms similar to the bills described above. They contain perfecting amendments to the existing civil-rights laws similar to those described above (but not including amendments to the antipeonage laws), as well as broad antilynching provisions. In addition, they would prohibit discrimination and segregation in interstate transportation and in the Federal housing program. Finally, they contain sections embodying full fair employment and fair educational practices laws.

The other two bills (H. R. 51, Addonizio; H. R. 702, Rodino) contain all these items and also a prohibition of segregation in the Armed Forces an anti-poll-tax section, and a provision for establishment of a Joint Congressional Committee on Civil Rights.

These additional provisions are discussed below under the separate headings into which they fall.

IV BILLS PENDING IN OTHER COMMITTEES

We turn now to those civil-rights bills pending in the House that are not listed for consideration at this hearing We do so in order to present a complete picture on pending civil-rights legislation in the House and also because most of the bills have counterparts in the combination bills that are before this committee.

A. The poll tax

Eleven bills before the House that would abolish the poll tax as a condition on the right to vote in Federal elections have been referred to the Committee on House Administration In addition, there are anti-poll-tax provisions in three of the combination bills mentioned above There are five versions of the bill but they do not differ significantly in content. (One version appears in H. R. 629; Celler; H. R 1600, Powell, H. R 3690, O'Hara, and in the combination bills, H R. 51 and 702 Another appears in H R 3392, Barrett; H. R. 3417, Davidson; H. R 3479, Roosevelt; H. R. 3570, Chudoff; H. R 3584, Diggs; H. R. 5342, Reuss. Three additional versions appear in H. R 2809, Baldwin; H R. 3302, Dollinger, and the combination bill, H R. 5503.) Taking H. R 629 as an example, it would nullify the requirement of paying a poll tax as a qualification for voting or qualifying to vote in primary or other elections for selection of Federal officials Preventing any person from voting or qualifying because of nonpayment of the tax would be made unlawful. Similar provisions appear in all the other bills H. R 3392 and the bills identical with it also provide that aggrieved persons may file suits in the Federal courts to require compliance with the law

Throughout the history of the civil-rights struggle a cardinal objective has been the reversal of the disfranchisement of the Negroes in the South. That disfranchisement, deliberately carried out around the turn of the century, was accomplished in part by imposition of the poll tax as a prerequisite to voting. The fact that this device also disfranchised many poor white citizens did not lessen its attractiveness to its sponsors

Efforts to eliminate this barrier have been directed at both the Federal and State legislatures. The latter effort has met with such success that only five States—Alabama, Arkansas, Mississippi, Texas, and Virginia—retain the poll tax as a voting qualification. Meanwhile, improvement in the economic status of both Negroes and Whites has greatly reduced the significance of the poll tax With abolition of the white primary, Negroes have a greater incentive to qualify for voting by paying the poll tax and are, in fact, voting in greatly increasing numbers throughout the South Hence, the value of a Federal anti-poll-tax bill has steadily waned. It is not now an important civil-rights objective

Of course, efforts are still being made in some Southern States to restrain voting by Negroes, chiefly by discriminatory application of voting and registration requirements and the use of force and intimidation. These illegal practices could be restrained to some extent by vigorous enforcement of existing Federal statutes; more effective restraint could be achieved if those statutes were perfected as proposed in the bills described above.

B. Interstate transportation

Fifteen bills barring segregation in interstate transportation have been referred to the Committee on Interstate and Foreign Commerce. Corresponding provisions appear in all but one of the combination bills mentioned above.

There are a total of five versions. One would prohibit segregation in interstate transportation, make it a misdemeanor punishable by a fine of up to $1,000 and allow aggrieved parties to sue for damages or injunctive relief (H. R. 434, Heselton; H R. 6271, Pelly). Another adds to this a provision for suits for declaratory judgments (H. R. 691, Powell; H. R. 3252, Heselton; H. R. 3689, O'Hara) The next group would add to the second a provision allowing suits in Federal courts (H. R 435, Heselton; H. R. 2877, Scott; H. R. 3717, Udall; H. R 4435, Chudoff). The largest group of bills contains separate sections imposing penalties for interference with the right to equal accommodations without segregation and for acts of segregation by agents of a common carrier. Violators would be subject to a $1,000 fine and suits in the Federal

or State courts (H. R. 3477, Roosevelt; H. R. 3572, Chudoff; H. R. 3576, Davidson; H. R. 3586, Diggs; H. R. 5346, Reuss; the 6 combination bills identical with H. R. 3389; the 2 identical with H. R. 51 and the 2 identical with H R. 389). Finally, one bill would add a prohibition of segregation to the Interstate Commerce Commission Act, making violators subject to proceedings under that act (H. R. 3301, Dollinger).

This moderate proposal was the only civil-rights item that received active consideration in the House of Representatives during the last Congress. It was favorably reported by the House Committee on Interstate and Foreign Commerce but not until near the end of the second session. It was kept from the floor by the Rules Committee.

The bill raises no question regarding States' rights since interstate transportation is clearly within Federal jurisdiction. Prohibiting segregation, while doing simple justice to Negro travelers would also lift a heavy burden from the Nation's railroads and bus lines. While segregation has been greatly reduced in railway dining cars and Pullmans, it is still the rule in ordinary coach travel and most buses. The bill promises a limited usefulness

C. Fair employment

Seven identical broad fair-employment bills have been introduced (H. R 690, Powell; H. R. 3393, Barrett; H. R. 3410, Chudoff; H. R. 3473, Roosevelt; H. R. 3577, Diggs; H. R. 3697, O'Hara; H. R. 5347, Reuss), and an eighth is similar to these (H. R. 3306, Dillinger). Together with the two narrow bills mentioned below, they have been referred to the Committee on Education and Labor. Of the 5 combination bills mentioned above that contain fair-employment provisions, 3 are identical in this respect with H. R. 690 (H. R. 389, 3688, and 5503), and 2 are identical with H. R. 3306 (H. R. 51 and 702).

H. R. 690 would prohibit discrimination in industries affecting interstate commerce by employers, employment agencies, and unions. A commission would be established to enforce the act by receiving complaints, investigating them, and attempting to settle each case by conciliation. If conciliation failed, the commission would have power to hold public hearings and ultimately, if the facts warranted, to issue an order enforceable in the courts. The bill is in the form that has evolved from long consideration of a succession of bills introduced over a period of more than 10 years and has long enjoyed bipartisan support in the House and Senate.

Fair employment retains its position of priority among the goals of civil-rights forces. The bills would deal fairly and effectively with a pressing problem that undermines the economic position of millions of Americans and hence the stability of the entire Nation. We believe it should be enacted that the enforcement features of the bills are essential to attainment of the objective of equality in employment.

Fair-employment bills were defeated by filibusters in the Senate on the two occasions on which they came to the floor in 1946 and 1950. On the only occasion when such a bill came to the floor of the House, in 1950, it was approved, but only after it was amended to remove its enforcement features. These amendments certainly reduced the effectiveness of the bill; yet, we are not prepared to say that a bill without enforcement features would necessarily be entirely useless, if it contained provisions for hearings and gave the administering commission adequate subpena powers. It is possible that some gains could be made by empowering a Federal agency to receive and investigate complaints of discrimination, to hold hearings, to publicize the extent of discrimination, and to attempt by persuasion to broaden the employment opportunities of minority groups. The Hays bill (H. R. 6217) would declare a Federal policy against discrimination in employment and union membership. It would empower the Secretary of Labor to receive and investigate complaints and seek to adjust them and to formulate programs to reduce discrimination. A Minorities Employment Bureau would be established in the Department of Labor to which the Secretary could delegate his powers under the act. Local advisory councils and a National Advisory Council on Minority Problems could be created. This is an ineffectual measure because it does not provide for hearings or give the Secretary of Labor subpena power.

One other bill deserves only brief mention (H. R. 2596, Hoffman). It would prohibit discrimination by employers and employees and would allow Federal court action for damages by aggrieved parties. Such a bill must be regarded as totally ineffective.

D. Education

Two bills on education have also been referred to the Committee on Education and Labor. One of these, only recently introduced, suggests a highly constructive approach to the elimination of segregation in public schools (H. R. 6803, Udall). It would provide Federal aid to meet the construction costs of schools needed to further a plan of integration. Local education authorities would be eligible for this aid if they had a program of integration and if new construction was needed for the program. They would have to certify that no pupil would be barred because of his race from any facility constructed with aid supplied under the bill.

The other bill referred to the Committee on Education and Labor would bar any payment of veterans' benefits or other Federal funds to any school that discriminates in the admission of students or allows its students to join fraternal or other organizations that discriminate (H. R. 3305, Dollinger). This relatively narrow bill has no provisions for enforcement and hence it is not likely that it would be effective.

Broader regulation of educational institutions is detailed in the comprehensive civil-rights bills mentioned above that are before this committee. H. R. 389 and 3688 would prohibit discrimination and segregation by all schools receiving Federal funds or enjoying Federal tax exemption. (The words used to define the schools covered by the bills are not well chosen to insure inclusion of all public schools.) Upon complaint of a violation, a hearing would be held by the Administrator of the Federal Security Agency. If he found that a violation had occurred, he could order removal of the official responsible for it. If the order was not complied with, the school would lose Federal aid and Federal tax exemption in a specified amount. The Administrator's order would be subject to court review. The bill would also impose a fine of up to $1,000 and a jail sentence of up to 1 year for violations and would permit persons aggrieved by violations to sue for treble damages in the Federal courts. The Department of Justice and Federal district attorneys would be empowered to bring suits to restrain violations. There is an appropriate exemption for schools operated by religious bodies, as there is also in the following bill.

The sections on education in H. R. 51 and 702 would prohibit discrimination in post secondary schools only. Complaints of violations would be filed with the Commissioner of Education who would then have the same powers to investigate, attempt conciliation, hold hearings, and issue an order enforceable in the courts that would be held by the commission proposed in these bills for enforcement of the fair-employment provisions. The bills would also provide that schools that discriminate may not receive Federal funds under Public Laws 815 and 874 of the 81st Congress, which provide for Federal assistance to States to study public-school needs and to meet the cost of supplying additional facilities for children in families of personnel at Army posts and other Federal installations.

E. Housing

A proposed "Fair Housing Practices Act" has been referred to the Committee on Banking and Currency (H. R. 3303, Dollinger). Its single section would prohibit any agency of the United States from making any loan or grant or giving any other financial assistance to any person or Government agency to finance the purchase or construction of any housing accommodation with respect to which there is any discrimination. The absence of enforcement provisions as well as the fact that the bill would not apply to the FHA or VA mortgage guaranty programs make it unlikely that this bill would have substantial effect.

Broader provisions on housing are contained in the four comprehensive civil-rights bills before this committee. The elaborate provisions of H. R. 389 and 3688 would prohibit discrimination and segregation in all housing operated by agencies of the Federal Government or by corporations whose funds come in whole or in part from the Federal Government. All loans, mortgage guaranties, grants, or transfers of land made by Federal agencies for housing purposes would be subject to a prohibition of segregation and discrimination and the recipients would have to state in advance their agreement not to discriminate. Such statements would be filed in the local Federal courts. Breach of a condition would entitle the Government to nullify the loan, mortgage guaranty, grant, or transfer. The Administrator of the Housing and Home Finance Agency would have the same powers of enforcement as would be given to the Commissioner of Education under the sections of these bills dealing with education and the additional sanctions of those sections, including the provisions for criminal penalties, suits for damages and injunctions, would also apply.

H. R. 51 and 702 contain a more limited prohibition barring discrimination by mortgagors whose mortgages are insured or guaranteed by the Federal Government as well as discrimination and segregation under several other Federal housing programs.

F. Military forces

A bill referred to the Committee on the Armed Services would withhold Federal aid from National Guard units that discriminate or segregate (H. R. 682, Multer). A number of States have ended segregation in their National Guard establishments in recent years but the practice is still widespread. Moreover, in some States Negroes are simply excluded from the National Guard altogether. Because the Federal Government offers valuable benefits to persons who serve in the National Guard, discrimination in admission to these benefits is a real hardship with which the Federal Government must be concerned. The virtues of this bill are therefore obvious. An alternative or additional sanction might be to limit the Federal benefits given to those who serve in National Guard units to persons serving in units open to all without discrimination or segregation.

The two identical comprehensive bills before this committee, H. R. 51 and 702, contain a section prohibiting segregation in the United States armed services, their units and reserve components. In view of the ending of segregation in the Federal Armed Forces under the present and previous administration, the need for such a provision is not apparent.

G. Congressional Civil Rights Committee

Establishment of a Joint Congressional Committee on Civil Rights is proposed in a resolution that has been referred to the Committee on Rules (H. Con. Res. 63, Roosevelt). An identical provision appears in the comprehensive civil-rights bills before this committee, H. R. 51 and 702. The committee would consist of seven members of each Chamber. It would study matters relating to civil rights and advise congressional committees dealing with legislation on such matters. It could hold hearings, require attendance of witnesses, and employ a staff.

This proposal has long been favored by civil-rights groups and, like the proposals to establish a Permanent Commission on Civil Rights and a Civil Rights Division in the Department of Justice, it was specifically recommended by the President's Committee on Civil Rights.

H. Discrimination in the Capital

Two identical bills (H. R. 3457, Powell; H. R. 3691, O'Hara) would prohibit discrimination in employment and places of public accommodation in the District of Columbia. They would establish a District of Columbia Commission Against Discrimination to administer the act, consisting of five members, appointed by the President with the advice and consent of the Senate. The Commission would have the powers usually conferred upon administrative anti-discrimination commissions to engage in educational activities, to receive complaints, attempt conciliation, hold hearings, and issue orders reviewable in the courts.

I. Group libel

One bill on group libel that was referred to this committee was not included in the list of bills to be considered at this hearing (H. R. 5418, Diggs). It would prohibit any person from sending through the mails any matter intended to or calculated by its terms to incite intergroup hostility. Violators could be fined up to $5,000 and sentenced to jail for up to 10 years.

V PRIORITIES

The rules of the Senate are, of course, a matter on which this committee cannot take action. Nevertheless, it is not likely to ignore the fact that any civil-rights bill worthy of the name has little hope of getting past the barrier of the filibuster which the Senate rules permit.

Assuming, however, that, with sufficient effort, a filibuster can be broken under the present rules, the priority item on which we would want the effort to be made is fair employment. While the pending FEPC bills are not before this committee, it does have several broadly comprehensive bills that include fair-employment sections.

There is much to be said in favor of House action on such a general bill. A favorable committee report and, even more, House approval of a comprehensive

civil rights bill would be an affirmation of belief in the goal of full equality and in the obligation of the Federal Government to assist in its attainment. Moreover, breaking through a Senate filibuster is a long, time-consuming process. If the effort is to be made, it would be better to do it for a bill carrying a broad program than for a bill containing only one item. The Powell comprehensive bill (H. R. 389) and the even more inclusive Addonizio bill (H. R. 51) both combine all the major items in the civil-rights program. Their contents are set forth in section III E above. We urge approval by this committee and by the House of Representatives of a comprehensive civil rights bill such as those introduced by Representatives Powell and Addonizio.

Some of the proposals before this and other committees are not worth troubling with; if a compreheneive bill is considered, they should not be included. Other items, not too important by themselves, should be included if only because they are not important enough to warrant separate tilts at the filibuster windmill.

VI. THE ALTERNATIVE

In all probability, much of the foregoing is merely an exercise in rhetoric. In view of what has happened in Congress in recent years, civil rights groups can be excused if they show only mild interest in the introduction of civil rights bills and committee hearings such as this.

A legislative minority has been able to block civil rights measures year after year by exploiting the provisions of the existing congressional rules. For years we have watched urgently needed reforms founder because of blind intransigence stemming from equally blind intolerance. We no longer hope to persuade the minority to abandon vountarily their undemocratic tactics. We can hope that they will change their attitude if they find that it is too costly.

Accordingly, civil rights forces are now virtually united in calling for addition of antidiscrimination provisions to pending measures that would otherwise foster inequality or permit it to continue without redress. This approach offers a far better change of concrete gains than continued routine support of the separate civil rights bills before this committee.

The chief argument against this strategy is that it may prevent enactment of both the antidiscrimination amendments and the measures to which they are attached. The assumption is that those who oppose civil rights reform will oppose every other reform rather than permit that one. We are not so sure they will. And we are certain they cannot do so for long. Ultimately, the need for Federal action on schools, housing, and the like will evoke a popular outcry that will drown out the voice of intolerance and win victory for democratic goals and democratic procedures. Then Federal benefits will be distributed as they should be—with, and only with, full safeguards against inequality. If this retards the flow of those benefits to some extent, we believe, upon careful consideration, that that is a price that must be paid.

The current session of this Congress has already shown that the civil rights battle will be fought not on specific civil rights bills but on sorely needed antidiscrimination and antisegregation amendments to other pending legislation. This session will see but the beginning of the contest on that newly opened front. It will continue until there is no longer need for Federal action to achieve in fact full equality for all Americans.

APPENDIX

Civil rights bills introduced in the House of Representatives, 84th Cong., 1st sess., 1955

Bill No.[1]	Sponsor	Committee	Subject
1. 268	Celler	Judiciary	Amending existing general civil rights laws.
3387	Barrett	do	Do.
3421	Davidson	do	Do.
3474	Roosevelt	do	Do.
3566	Chudoff	do	Do.
3580	Diggs	do	Do.
5349	Reuss	do	Do.
2. 3390	Barrett	do	Amending existing laws protecting right to vote.
3419	Davidson	do	Do.
3476	Roosevelt	do	Do.
3569	Chudoff	do	Do.
3582	Diggs	do	Do.
5343	Reuss	do	Do.
3. 628	Celler	do	Amending existing laws on peonage.
3394	Barrett	do	Do.
3420	Davidson	do	Do.
3481	Roosevelt	do	Do.
3567	Chudoff	do	Do.
3581	Diggs	do	Do.
5344	Reuss	do	Do.
4. 259	Celler	do	Antilynching.
3304	Dollinger	do	Do.
3480	Roosevelt	do	Do.
3563	Chudoff	do	Do.
3576	Davidson	do	Do.
3578	Diggs	do	Do.
5345	Reuss	do	Do.
5. 3388	Barrett	do	Commission on Civil Rights.
3420	Davidson	do	Do
3475	Roosevelt	do	Do.
3568	Chudoff	do	Do.
3579	Diggs	do	Do
5351	Reuss	do	Do
6. 3391	Barrett	do	Civil Rights Division in the Department of Justice
3418	Davidson	do	Do.
3478	Roosevelt	do	Do.
3571	Chudoff	do	Do.
3583	Diggs	do	Do.
5350	Reuss	do	Do.
7. 3389	Barrett	do	Combines all above items except antilynching bills, with creation of joint congressional committee and prohibition of segregation in interstate transportation
3423	Davidson	do	Do.
3472	Roosevelt	do	Do.
3562	Chudoff	do	Do
3585	Diggs	do	Do
5348	Reuss	do	Do
8 627	Celler	do	Covers same items as above except for antipeonage provisions.
9. 5503	Anfuso	do	Combines antilynching, Civil Rights Commission, anti-poll tax and FEPC.
10. 389	Powell	do	Combines Civil Rights Commission, Civil Rights Division, antilynching, amending existing civil rights laws and laws protecting right to vote, discrimination in interstate transportation and in Federal housing, FEPC and fair education
3688	O'Hara	do	Do
11. 51	Addonizio	do	Covers same items as above and also anti-poll tax, joint congressional committee and segregation in Armed Forces.
702	Rodino	do	Do.
12. 629	Celler	House Administration	Poll tax.
1600	Powell	do	Do.
3690	O'Hara	do	Do.
2809	Baldwin	do	Do.
3302	Dollinger	do	Do.
3392	Barrett	do	Do.
3417	Davidson	do	Do.
3479	Roosevelt	do	Do.
3570	Chudoff	do	Do.
3584	Diggs	do	Do.
5342	Reuss	do	Do.

[1]Bills bracketed together are identical

Civil rights bills introduced in the House of Representatives, 84th Cong., 1st sess., 1955—Continued

	Bill No.[1]	Sponsor	Committee	Subject
13.	434	Heselton	Interstate and Foreign Commerce.	Segregation in interstate transportation
	6271	Pelly	do	Do.
	435	Heselton	do	Do.
	2877	Scott	do	Do
	3717	Udall	do	Do.
	4435	Chudoff	do	Do.
	691	Powell	do	Do
	3252	Heselton	do	Do.
	3689	O'Hara	do	Do
	3477	Roosevelt	do	Do.
	3572	Chudoff	do	Do
	3576	Davidson	do	Do.
	3586	Diggs	do	Do
	5346	Reuss	do	Do.
	3301	Dollinger	do	Do
14.	690	Powell	Education and Labor	Fair employment bill with enforcement provisions.
	3393	Barrett	do	Do.
	3410	Chudoff	do	Do.
	3473	Roosevelt	do	Do.
	3577	Diggs	do	Do
	3697	O'Hara	do	Do
	5347	Reuss	do	Do
	3306	Dollinger	do	Do.
15	6217	Hays	do	Fair employment bill without enforcement provisions.
16.	2596	Hoffman	do	Prohibits discrimination by employers and employees, with suits for damages
17.	6803	Udall	do	Grants Federal aid to build school facilities needed for integration program.
18.	3305	Dollinger	do	Bars Federal funds to schools that discriminate.
19.	3303	do	Banking and Currency	Bars Federal funds for housing where there is discrimination.
20.	682	Multer	Armed Services	Bars Federal funds to National Guard units that segregate.
21	3457	Powell	District of Columbia	Discrimination in employment and public places in District of Columbia.
	3691	O'Hara	do	Do.
22.	5418	Diggs	Judiciary	Bars race hate material from mails.
23.	H. Con Res. 63	Roosevelt	Rules	Joint congressional committee.

[1] Bills bracketed together are identical.

Mr. MASLOW. I merely call your attention to the appendix of the statement which we have prepared, with the thought that it might be of some use to the committee. When we get to the stage—which we hope will be soon—of drafing legislation, I think this will be helpful.

This statement consists of an analysis of the 95 bills now pending in the Houses of Representatives on civil-rights matters.

Mr. LANE. May I add right there that that is going to be of very great help to the committee, because there are so many bills, and some of them, no doubt, duplicate others but there are so many that bring out things on the subject that I am sure that will be of great help to us, and I appreciate what you have done.

Mr. MASLOW. The appendix lists the duplications. Of the 95 bills, 51 are pending before this committee; but many of the central ideas of the 45 are pending before other House committees, and are incorporated in bills before this committee. And sometimes the whole text of the bill before another committee is likewise before your committee. For example the House Committee on Education and Labor had before it a bill dealing with fair employment practices. You will find certain so-called comprehensive bills before this committee which contain the full text of these FEPC bills. So that this committee really

has before it in one way or another every major idea in the advancement of civil-rights legislation that has been considered in the last 20 years.

Perhaps it would be useful if I take a moment at least to list the categories of the bills which are before your committee.

There has been reference made to continued violence on the part of Government agencies, of Government officers, against Negroes. That is a problem, of course, which can be handled by the antilynching bill pending before your committee.

There has been reference made to the denial of the right of suffrage; that is dealt with by a bill making it a Federal offense to interfere with the right of a voter to cast his ballot in a Federal election, and also in bills repealing the poll tax which still remains the law in five States.

There is also a bill forbidding peonage, a modern version of slavery.

In addition to those bills, which, in the main, reflect or deal with the problem of violence, we have bills which deal with the problem of discrimination and segregation; fair employment practice bills, bills prohibiting segregation in interstate commerce, bills forbidding discrimination or segregation in any form of housing that receive Federal grants or other Federal subsidies and are thus within Federal jurisdiction.

And similarly there are bills forbidding discrimination or segregation in the public schools that receive Federal grants.

And finally there are a series of four types of bills which deal with the structural matters designed to improve the enforcement of the law. There are, for example, bills to amend and perfect the existing two civil-rights laws now on the books: These civil-rights laws are sections 241 and 242 of title 18 of the United States Code. They have been and are survival relics of the reconstruction statute.

However, they still have vitality and are the only safeguards that we have on our books today to prevent the violation, in the name of State law, of a Federal right.

In addition, there are pending bills which create a commission on civil rights, bills which strengthen the existing Civil Rights Section of the Department of Justice, which is now staffed with a tiny handful of lawyers—I believe the last count showed about six lawyers in that section; and finally a bill to create a joint congressional committee on civil rights to focus attention on this problem in the States.

Now, I would like to address myself to a question that Congressman Burdick put to one of the witnesses, which is a very practical question: How can this committee deal with this mass of bills which is before us, and what is the most effective way that they can discharge their responsibility?

I have two suggestions to offer. There are two comprehensive bills before your committee that in a sense incorporate all of the ideas in all of the other bills. One of them is the so-called Powell bill, H. R. 389, which contains almost all of the features that I have already discussed, and the second one is a bill introduced by a member of this committee, H. R. 702, the Rodino bill.

Now, these bills contain almost everything that has been requested by the President's Committee on Civil Rights, and by President Truman's program on civil rights, and by most of the civil-rights agencies. So, instead of enacting 84, 85, or 95 bills, if 1 of these 2 bills is enacted it will suffice.

Mr. BURDICK. What was the number of the Powell bill?

Mr. MASLOW. H. R. 389.

Now, the Rodino bill is H. R. 702. That is an exact duplicate of another bill which is pending before this committee, the Addonizio bill, which is H. R. 51.

Mr. BURDICK. The Powell bill, as I understand it, and I have read a time or two, combines all of these questions or complaints which have been heard here today, does it not?

Mr. MASLOW. It gives almost complete coverage, but the Rodino and the Addonizio bills are even more comprehensive and contain everything. I can give you a list of what they contain if you will bear with me for just a second.

Mr. BURDICK. Yes.

Mr. MASLOW. The Powell bill begins with a series of findings of fact on the need for Federal action. It then proposes the creation of a permanent Civil Rights Commission. It then goes on to suggest the creation of a Civil Rights Division in the Department of Justice. It then adds perfecting amendments to civil-rights laws. It then contains broad antilynching provisions and, finally, it prohibits discrimination and segregation in interstate transportation and in Federal housing programs. It also contains a full FEPC law and to put icing on the cake the bill also prohibits discrimination or segregation in interstate commerce.

The Addonizio bill does all of that, and, in addition, has a section in it forbidding the use of the poll tax in elections, and provides for the establishment of a joint congressional committee on civil rights.

Now, the enactment of either of those bills provides complete personnel and weapons for the Federal Government to deal with every problem that has been discussed before your committee, every form of violence, of discrimination, or segregation, and every failure to enforce the law. Every conspiracy or interference with a Federal right can be dealt with under them.

If I were asked to evaluate from among these items which was the most significant, I would say the most significant was the failure to create enforceable fair employment practice laws. That is the problem that is most widespread. Of course, it does not present all of the horrible overtones of an occasional act of violence, or the acts of maltreatment of a prisoner, but by and large it affects more persons than any other type of civil rights measure. It affects not only Negroes, but Jews, Puerto Ricans, Latin-Americans, and other foreign groups.

Moreover, we have the experience now with 15 States in the Union having fair employment practice laws. These laws have been on the books since 1945, a period of 10 years, and all of the bugs have been taken out. We know that this is not a visionary idea any more, and we feel that a fair employment practice law would be item No. 1 in the priorities of civil rights requested.

If I were again asked to choose other measures, the choice of my organization would be not to add new prohibitions to the law but strengthen the enforcement of the civil rights laws which are now on the books.

That can best be done by the bill pending before you in the comprehensive bills, to convert the Civil Rights Section of the Department of Justice into a Civil Rights Division. Instead of a group of 6

lawyers it ought to have 50 lawyers in it. Instead of investigating cases by mail as they do today it ought to have regional offices throughout the country. It ought to begin to show the menace in these problems of discriminatory suffrage laws. It ought to begin taking broad steps to take some action on these measures. It ought to move against citizens' councils in Mississippi that are using economic boycotts to interfere with Federal rights.

I believe that single measure of improving the enforcement of the Civil Rights Section, by giving it a new staff, and raising it to the level of a Division, and seeing that a person of nationwide prominence is head of the Division, in my opinion, promises more than any anti-lynching bill, or anti-poll-tax bill.

Mr. BURDICK. Then either of those bills, H. R. 389, or H. R. 51 would do the job?

Mr. MASLOW. Yes. Finally, as the least controversial measure I would urge the creation of a Commission on Civil Rights. That would be a Commission which would not be a regulatory or enforcement Commission, that is, it would not have the power to enforce any prohibitory laws. Its task would be to continue to exercise continual surveillance of this problem as a whole. Today no organization in the country knows the extent of the violence, the extent of police brutality, the extent of the denial of the rights of suffrage, or the many other violations, some less crude and less gross. But this kind of a Commission can study the problem intelligently. It can focus public attention on it by public hearings and can make recommendations to the legislatures.

To sum up, therefore, I would say that we should have a comprehensive bill, and the three most important components in that comprehensive bill are FEPC, a Fair Employment Practices Commission, a Civil Rights Division, and a Commission on Government Rights.

Thank you.

Mr. LANE. Thank you, Mr. Maslow; we appreciate your statement very much.

Are there any questions? That will be the last witness for the time being. The bells have now rung for a quorum in the House, and this committee will suspend for about half an hour, and at the end of that time the next witness to be heard will be Mr. Hartnett, of the CIO. So, the committee will stand suspended for a period of about 30 minutes, and then we will reconvene, and I hope the members will return if they possibly can.

AFTERNOON SESSION

Mr. LANE. The committee will kindly come to order, please.

At this point we will hear Kenneth Birkhead, executive director of the American Veterans Committee.

STATEMENT OF KENNETH M. BIRKHEAD, WASHINGTON, D. C., EXECUTIVE DIRECTOR OF THE AMERICAN VETERANS COMMITTEE (AVC)

Mr. Chairman and members of the committee, I want to express, on behalf of the American Veterans Committee, or appreciation for this

opportunity to appear before you in behalf of the important legislation you are considering.

Our appreciation will be even greater when our members can sit in the galleries of the House and the Senate and listen to a favorable rollcall on these same bills.

AVC is an organization composed of veterans of the last three wars. We have always been particularly concerned with the problems of civil rights. We have fought for these rights as members of the Armed Forces of this country.

As veterans we have also been deeply interested in the problems of stopping the aggressor nations and winning the peace. We have supported measures to achieve physical strength for our Nation and for the free world. This struggle requires more. The conflict with the Soviet Union is not carried on alone with guns and planes and bombs. It is also a moral struggle for the minds and loyalty of men. We give the skilled Russian propagandists another weapon when we fail to protect the rights of our own citizens.

More important even than this is the fact that our Nation and our people need this legislation. It is at the same time a moral problem and a social-political, and economic problem. The passage of major civil rights legislation would be good for the American spirit, the American community, American education, the American political structure and American business.

I would be less than frank if I did not say that the AVC has been disappointed that this Congress has not, to date, found it possible to take action on the many important civil rights measures which have been introduced by the Members of the Congress.

We still do not think that it is too late for this Congress to take action in this field. Many times in the past we have seen the Congress act with great dispatch when the need was there. We feel the need is here for action on civil rights.

Certainly there is no lack of legislative study on this subject. Hundreds of hours of hearings and thousands of pages of testimony are available on the phases of civil rights covered by the bills you are considering. Your subcommittee is adding immeasurably to bringing this information up to date.

These hearings are concerned with some 51 bills, some of which relate to one particular field of civil rights, and some of which relate to several fields. As we view it, the areas included are:

1. The establishment of a Commission on Civil Rights in the executive branch of the Government.
2. The establishment of a Joint Congressional Committee on Civil Rights.
3. Creating a Civil Rights Division in the Department of Justice under the direction of an Assistant Attorney General.
4. Strengthening the existing civil rights statutes which prohibit conspiracy to violate constitutional rights.
5. Eliminating segregation in interstate transportation.
6. Making lynching a Federal crime and providing remedies for the next of kin of the person lynched.
7. Elimination of the poll tax.
8. Barring discrimination, by segregation and otherwise, in housing.
9. Forbidding racial discrimination in education.

10. Strengthening the peonage laws which prohibit slavery and involuntary servitude.

11. Protecting the right to political participation without coercion or discrimination based on race.

12. Prohibiting discrimination in employment.

We are in favor of all of these objectives. We believe that America needs legislation which will protect or advance human and civil rights in each of these fields. We are hopeful that this subcommittee could make favorable recommendations for legislation in each of these areas. We say this even though we know that some of these bills' objectives might have greater difficulty in being enacted than others. We urge passage because we are convinced that these objectives are good for America.

We have examined and compared the provisions of these 51 bills. Some of them are identical, but others, especially those which are drafted as omnibus bills, either do not cover all the 12 objectives mentioned previously, or contain provisions which differ from those contained in other bills.

I shall therefore attempt here to indicate some of the key points that we urge this subcommittee to include in the bill or bills that will be favorably reported.

The bills which deal with the three objectives of a Commission on Civil Rights in the executive branch, a Joint Congressional Committee on Civil Rights, and a Civil Rights Division in the Department of Justice are all designed to establish additional machinery, both in the legislative and executive branches of the Government, to aid in the appraisal and enforcement of civil rights which are protected by law and guaranteed by the Constitution. In general, we think that the basic provisions are adequately included in these bills. However, we believe that the work of the Commission on Civil Rights is so important, and the problems that it would have to deal with are so continuous and extensive, that the members of the Commission should be appointed on a full time, paid basis, with annual salaries, commensurate with the responsibilities involved, rather than on a per diem basis.

If, however, the bill to establish a Commission on Civil Rights retains the provisions that the members thereof shall be paid only on a per diem basis, then we urge that a provision be inserted to waive the conflict of interest statutes to the same extent that is now provided for dollar-a-year men employed by, for example, the Office of Defense Mobilization. Such waiver of the conflict of interest statutes is almost essential to enable selection of the best qualified personnel, if they are to serve on a nonsalaried basis. I need hardly remind this subcommittee that the question of waiver of the conflict of interest statutes was the rock upon which the Nimitz Commission on Internal Security and Individual Rights was wrecked in 1951.

Some of the bills now before this subcommittee would empower the Commission to issue subpenas, if necessary, to obtain evidence and data. Such subpena authority, we think, is essential if the Commission is to do its work properly.

I would now like to say a word about the bills which would strengthen several of the existing civil-rights statutes. These statutes are now contained in sections 241 and 242 of the Criminal Code (title 18, U. S. C.) and penalize conspiracies by two or more persons, and action by police and other officials acting under color of law, regula-

tion, or custom, which are designed to deprive people of their constitutional rights. These statutes were first adopted during the decade that followed the Civil War, when Congress enacted several comprehensive laws which implemented the 13th, 14th, and 15th amendments to the Constitution. These statutes literally accomplished miracles in safeguarding the civil rights, not only of the Negroes who had recently been freed from slavery, but also those who had never been slaves. Without those laws, the turbulence and violences of the post-Civil War period might have been infinitely greater.

However, during the last decades of the 19th and the early part of the 20th century, the growth of discrimination in many parts of the country, produced a climate that weakened and impaired these laws. Through narrow interpretation by the courts, through the splitting of statutory sections when the statutes were codified, and by repeal of some of these provisions, the great beneficent purposes of the civil-rights laws were greatly reduced in scope and effect.

It is in the context of this history that we should consider the purposes of these bills. Yet the truth of the matter is that these bills are narrow in scope. They would amend section 241 to protect aliens as well as citizens. They would also add a subsection which would penalize a violation of constitutional rights by 1 person, as well as where 2 or more persons engage in a conspiracy to impose such injury or threat. Some of the bills would increase the penalty from $5,000 fine and 10 years' imprisonment to $10,000 or 20 years if the injury causes the death or maiming of the person injured. In addition, these bills would permit the person who has been wronged to sue for damages or preventive relief in a civil action against the wrongdoer.

We agree with these amendments. However, we note that some of these bills apply the increased penalty of $10,000 or 20 years, where the injury results in death or maiming, only to injuries caused by a single person. We think the increased penalty should also be made applicable to injuries which result from the conspiracy of two or more persons. Otherwise, where such death or injury occurs, the wrongdoer could escape the greater penalty by getting others to participate with him in the wrongdoing, so that, in effect, two wrongs would create a partial immunity for the wrongdoers.

The second change which these bills would make in the civil-rights law is to amend section 242. That section, as I have said, applies to those, such as sheriffs, deputies, police, and others, who under color of law, regulation, or custom, deprive others of their constitutional rights. These bills would extend section 242, and would impose the greater penalty of $10,000 fine or 20 years' imprisonment where the wrongful conduct causes death or maiming of the person so injured or wronged.

Finally, these bills would add a new section, section 242A, which would more precisely define the rights, privileges, and immunities protected under section 242. A recital of these rights demonstrates how essential these rights are to the protection and maintenance of our constitutional liberties:

(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

(2) The right to be immune from punishment for crime or alleged criminal offense except after a fair trial and upon conviction and sentence pursuant to due process of law.

(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.
(4) The right to be free of illegal restraint of the person.
(5) The right to protection of person and property without discrimination by reason of race, color, religion or national origin.
(6) The right to vote as protected by Federal law.

We concur with the objective of this proposal, namely, to make more definite and precise the basic rights protected under section 242. However, we believe that the same definitiveness and precision is necessary in connection with section 241, which also contains the phrase "right or privilege," and we therefore urge that section 242A be made applicable to section 241, as well as to section 242.

I now turn to the provisions present in some of the so-called omnibus bills, which would eliminate discrimination, whether by segregation or otherwise, in interstate transportation. The field of interstate transportation is preeminently within the province of Congress. Not only does the Constitution confer upon Congress full power to enact such legislation, but the courts have frequently held that the States have no right to enact legislation that would burden interstate commerce. These bills therefore are particularly appropriate for Congress to enact.

I should like to emphasize that these bills would not establish a new policy. They would simply reaffirm and clarify the general policy already adopted by Congress in several statutes against discrimination with respect to travel on common carriers in interstate transportation. Nondiscrimination provisions are present in the Interstate Commerce Act (49 U. S. C. 3 (1)), in the Motor Carriers Act (49 U. S. C. 316 (d)), in the Civil Aeronautics Act (49 U. S. C. 484 (b)), and in the statutes applicable to common carriers by water (49 U. S. C. 905 (c) and 46 U. S. C. 815, First). Moreover, the courts in numerous cases have held that segregation on common carriers in interstate commerce is unlawful. Three of the best known cases are *Henderson* v. *United States* (339 U. S. 816), *Mitchell* v. *United States* (313 U. S. 80), and *Morgan* v. *Virginia* (328 U. S. 373).

Yet because of the general wording of these statutes, much litigation has been necessary to spell out their meaning in precise cases. Moreover, the existing statutes carry varying and diverse penalties. The bills now before this subcommittee which deal with this problem will provide uniform remedies, with uniform penalties, in unambiguous and precise legislation to help carry out the policy which Congress has already established.

Racial segregation and other forms of discrimination on the common carriers of our Nation that travel in interstate commerce are particularly odious forms of discrimination. Freedom of movement has been one of the great strengths of our way of life when compared to that of the totalitarian nations. Freedom of movement is greatly hampered when travel is subject to discrimination. The American Veterans Committee fully believes that the cause of freedom will be greatly strengthened by the passage of legislation to eliminate such discrimination from common carriers in our interstate transportation.

Lynching was at one time a major threat to peace and order in many communities. In recent years, lynching has markedly declined to a point where in some years there has been not one single

lynching perpetrated in this country. The absence of murder in a community, however, does not lessen the need for laws against such a crime. The same is true of lynching. We believe that the enactment of such legislation would provide greater assurance against the rise of lynching as a form of racial coercion and threat. Such possibilities, indeed, seem to be potentially greater now than they have been for some years. The recent formation of so-called citizens councils in some States in efforts to organize opposition to the Supreme Court's decision in the school segregation cases may, in moments of tension and strain lead to outbreaks of violence by irresponsible people. Hence, we think that the enactment of an antilynch law will help to maintain peace and order as the various communities begin to adjust their school systems to accord with the requirements of the Constitution.

Some of the antilynching bills provide for a civil remedy by the injured person or his survivors against the governmental jurisdiction where the lynching occurred, or from which he was seized and taken to be lynched. We approve of such a civil remedy. It will go far to establish the conditions for the prevention of lynching.

Some of these bills impose liability upon the governmental subdivision without regard to whether such lynching was due to negligence, failure, or fault of the said governmental subdivision, whereas other bills permit the governmental subdivision to evade liability for the lynching by proving that its officers used all diligence and all powers vested in them for the protection of the person lynched. We favor the provision which imposes liability on the governmental subdivision without regard to the question of fault. In the first place, lynchings just do not occur where the officials provide a system of adequate protection against such crime. The very fact that the lynching took place demonstrates that the governmental subdivision was not up to par in the protection it affords to its people. Secondly, the suit to enforce such liability would have to be brought in or near the place where the lynching occurs. A jury from that governmental subdivision would, particularly in the atmosphere of emotional tension that accompanies a lynching, accept any scintilla of evidence offered by the officials as sufficient basis for excusing the payment of money from the local treasury to the injured person or his survivors.

Only brief comments are needed on this subject of the elimination of the poll tax. The right to a free, unhampered, and secret vote is one of the greatest bulwarks of the democratic system. This right should not be limited by any devices such as the poll tax.

It is important to remember in this regard that the poll tax is not solely directed at minorities but is a limitation on freedom directed at all Americans. The American Veterans Committee strongly favors doing away with the poll tax.

Segregation in housing has perhaps the greatest impact in the maintenance of a nondemocratic society, and is perhaps the most serious problem still facing us in the effort to erase the stigma of second-class citizenship.

Segregated housing is, possibly, the key to the whole problem of civil rights. The establishment and maintenance of the ghetto system encourages segregation in other forms of daily activity. Segregated neighborhoods lead to segregated schools, churches, recreation facilities, and other community facilities. Segregation in housing provides

the atmosphere that encourages delinquency, crime, disease, poverty, and other social evils.

In view of these results of segregated housing, one would suppose that the Government would long ago have made vigorous attempts to ameliorate the discriminatory conditions that lead to these social ills. Yet the blunt truth is that segregation in housing has received as much encouragement and aid from Government than most other forms of racial discrimination.

President Eisenhower has frequently stated it is the policy of his administration that no Federal funds shall be used to support discrimination. If that policy has been applied in the field of housing, segregation in housing would be virtually nonexistent. More than $25 billion of FHA and VA insurance and guaranties, now outstanding on nonfarm housing, provide a tremendous leverage in determining whether housing shall be provided on a democratic or on a nondemocratic basis.

It is with these facts in mind that we support provisions such as contained in the bills of Congressman Powell (H. R. 389) and Congressman O'Hara (H. R. 3688). These provisions, in part 6 of the bills mentioned, would forbid the use of Government funds to support discrimination whether by segregation or otherwise, in housing. In addition, because these bills recognize that the mere statement of a policy is not quite enough to fulfill its objectives, they provide the machinery for effectuating that policy. Thus, they would forbid judicial recognition of any contract that limits the opportunity of any person to obtain housing because of his race, color, or religion; they contain explicit provisions to insure that no loans or guaranties be made on housing accommodations where racial distinctions are to be applied; they require the recipient of the loans, guaranties, or grants to agree to comply with the policy of the act and authorize the Government to revoke and annul the transaction if the agreement is violated; and permit any person who is injured by a violation of the act to sue for triple damages against the wrongdoer. Appropriate provision, subject to court review, is also provided for supervising the operations and rental or sale practices of local housing agencies to insure that they do not violate the policy of the act.

We believe that these provisions are essential to effective realization of the policy envisaged by these bills. Without such machinery, we think that a policy of nondiscrimination in housing would simply pay lipservice to the principle of equality in housing. The provisions in these bills are not burdensome or unjust, and they provide for full and adequate review by the courts. The American Veterans Committee therefore strongly urges that the Congress enact these provisions. Indeed, we would go as far as to say that the enactment of the provisions in the Powell-O'Hara bills should be given top priority along with the enactment of a bill to end discrimination in employment.

The provisions, relating to discrimination in education, do, in the main, two things: (1) They implement the policy of President Eisenhower and his predecessors in office that Federal funds or Federal aid should not be extended to educational institutions which make discrimination among persons because of race, color, religion, or national origin; (2) they follow the recent decision of the Supreme Court on school segregation, now the law of the land, by applying that Court's

ruling to all educational institutions receiving Federal funds or enjoying Federal tax exemption. Discrimination and segregation in education have been given the death blow by the Supreme Court, an act which probably engendered more good will for this country in vast areas of the world than any other recent single action, and the next step is to provide adequate implementation in those areas which can be reached by Congress. These provisions will bring the legislative branch into step with the executive and judicial branches.

The bills relating to peonage do not legislate in a new field. Congress has already made it illegal to hold or return any person to a condition of peonage, to arrest any person with the intent of placing him in peonage, or to do acts of a similar nature. These bills add only one major factor—making it illegal to "attempt" to do any of the acts already prohibited by existing law. This implementation should be made.

These bills protecting the right to political participation without coercion or intimidation do not create new law. They merely codify, and collect in one place, the various aspects of the present laws which have already been established by numerous court decisions over a considerable period of time. These bills are thus merely amplifications of the present form of the statutes involved. For example, it has been long established and consistently held that an "election" is not merely the general election, regularly scheduled, at which the President, Senators, Members of the House, and other national officers are elected, but it is also the primary at which they are nominated, and it is a special election held at any time. The protection against intimidation as to voting one's choice, or not to vote at all, thus extends to primaries and special elections, and these bills say so specifically. In the same manner, the right to vote in State elections includes primaries and special elections; the right to vote includes the right to qualify to vote, free of distinctions based upon race, color, religion, or national origin; indirect as well as direct distinctions are forbidden; and the courts have power to enforce all the rights set forth above, and these bills say so. There is no possible doubt as to the power of Congress to regulate Federal elections and to prohibit racial discrimination under color of State or local law in any State or local elections.

I think it is fair to say that the fundamental concept of American capitalism is that an individual may better his economic status to the extent that his abilities and energies empower him to do so. But the basic corollary of this concept is the principle of equality of opportunity which permit him to effectively realize the rewards that come from his abilities and energies.

These principles of freedom and equality of opportunity have made our Nation great. But so long as any person is denied the right to compete on the basis of abilities without being subject to the arbitrary barrier of racial or religious discrimination, for so long is the American ideal not realized.

I cannot sufficiently emphasize the concern of the American Veterans Committee on this point. Ever since the founding of this organization, more than a decade ago, we have supported and urged the enactment of fair employment legislation, both at the Federal and State level. We are gratified that many of the industrial States and cities have already enacted such legislation, until now more than 60

million Americans live in jurisdictions which are subject to such laws. But the ramifications and complexities of industrial employment and the impact of discriminatory employment practices upon the economy and well-being of our country are such as to demand the enactment of such legislation by the Federal Government to apply to employers who engage in commerce across State lines or affect interstate commerce.

There have been numerous hearings in past Congresses on bills to prohibit discrimination in employment. The reasons and arguments concerning such bills, and establishing their needs and importance, have been extensively documented. I shall therefore, at this time, simply mention 2 or 3 points relating to the bills on this subject which are now before this subcommittee.

(1) Some of the bills would prohibit discrimination by any employer, no matter how many employees he has. Others would apply the policy only to employers having 50 or more employees. Arguments can be adduced on both sides. On the one hand, every employer should abide by the American principle of equal opportunity. On the other hand, there are many instances where the small shop is a closely knit family-type working unit, which does not substantially affect the employment opportunities of the community. By concentrating its efforts on the larger working units, the proposed Commission to eliminate discrimination in employment will do a better job, and in the long run have more effect on the smaller units than if it tried to attack discrimination in each of the many thousands of these small units.

(2) As I have already indicated, the maintenance of segregated patterns inevitably produces discrimination. Every survey of human activity has proven, time and again, that it is impossible to have equal treatment in a framework of segregation. No matter how hard one might try to provide equality of treatment, the very presence of segregation will always produce inequalities, of one kind or another. The American Veterans Committee therefore, most strongly recommends and urges that any legislation designed to eliminate discrimination in employment should make clear that the maintenance of segregation is an unlawful employment practice, and that the term "discrimination" in the bills applies also to segregation practices.

(3) Employers and employment agencies should be forbidden to print or circulate or sponsor discriminatory advertising or to make racial designations. Whatever purpose could possibly be served by these designations, as in statistical compilations, is wholly outweighed by the discriminatory uses to which such advertising and designations are so often put. I am proud to say, at this point, that it was at the suggestion of the American Veterans Committee that the United States Civil Service Commission recently agreed to eliminate racial designations from the records of Government employees.

(4) Some of the bills provide that the Commission to eliminate employment discrimination may cede to a State agency jurisdiction over any cases where the State law or local ordinance applicable to such cases provides a comparable type of remedy. We have no objection to the enforcement of fair employment practices by States and local agencies. Indeed, such local enforcement would aid in effectuating the objectives of the Federal Act. But we do think that the Federal Act should be amended to make clear that any such cession of jurisdiction is not final and irrevocable. Thus, if the State law or municipal ordinance, by amendment or judicial construction, becomes an inadequate means of providing effective protection to the right to equal opportunity in employment, the Federal Commission should be able, after notice and hearing to the State or local officials, to resume jurisdiction over future cases. A similar provision, for example, is found in the Federal Coal Mine Safety Act of 1952, which authorizes coal mine inspections by State inspectors, pursuant to State plans, but which further authorizes the Federal Bureau of Mines to resume full inspections under the Federal act if the State plan is not adequately adhered to.

These conclude my remarks on the 51 bills which this committee is considering.

I would like to add one further matter. There is a subject which is not covered by these bills, a subject which is not solely civil rights in nature, yet, because it concerns men in uniform is of particular interest to the American Veterans Committee.

This relates to one of the most shameful blots on our national honor—when ruffians and thugs, and sometimes, unfortunately, even men who are charged with law enforcement, assault and interfere with American soldiers during their performance of duty and while they are in uniform, solely because of the color of their skin. There is at present no law to protect these men of our armed services.

There is a law to protect Federal judges, United States attorneys, marshalls, FBI men, post office inspectors, Secret Service employees, customs, Internal Revenue, National Park Service, and other Federal officials from such assault. This protection also covers officers and enlisted men of the Coast Guard.

The American Veterans Committee believes that the present law section 1114 of title 18 United States Code should be amended by deleting the words "man of the Coast Guard" and substituting in lieu thereof the words "uniformed members of the Army, Air Force, Navy, Marine Corps, or Coast Guard."

I wish to thank the chairman and the members of the subcommittee both for myself and the American Veterans Committee

Mr. LANE. The next witness is Mr. Al Hartnett, secretary-treasurer of the International Union of Electrical, Radio and Machine Workers, CIO.

We shall be glad to hear from you at this time, Mr. Hartnett.

Mr. HARTNETT. Thank you, sir.

STATEMENT OF AL HARTNETT, SECRETARY-TREASURER, INTERNATIONAL UNION OF ELECTRICAL, RADIO, AND MACHINE WORKERS, CIO

Mr HARTNETT Mr. Chairman and members of this subcommittee, my name is Al Hartnett. I am secretary-treasurer of the International Union of Electrical, Radio, and Machine Workers, CIO, which represents more than 400,000 workers in the United States and Canada. I also appear here today on behalf of the Congress of Industrial Organizations. My testimony, therefore, will represent the viewpoint of both organizations.

I appreciate this opportunity to appear before you to testify in support of the various civil-rights bills currently being considered by this subcommittee.

We of the CIO electrical workers, from the time of our chartering by the CIO in November 1949, have been extremely active in all phases of the struggle for extension of democratic rights and civil liberties. I might add parenthetically that the IUE–CIO is one of the very few American unions in which the civil-rights committee has permanent constitutional status, under the terms of the constitution of the organization.

Our persistent efforts during the past 6 years to wipe out the Communist-controlled United Electrical Workers have reinforced our basic conviction of the necessity to always respect the dignity of man and to protect the democratic rights of each and every person. We know that to effectively combat communism and its perverted program of class warfare we must jealously guard our precious sacred rights of freedom. Such freedom cannot be limited to only a particular portion of our citizens. It must apply to each and every man, woman, and child regardless of their color, race, nationality, or religion. Each American should be given an equal opportunity and not be sub-

jected to second-class citizenship because of the color of his skin, or the nationality of his parents, or the faith he adheres to.

We of the CIO Electrical Workers have made every effort possible to keep our own house in order. Our constitution spells out that the IUE–CIO shall be open to all workers within our jurisdiction "without regard to craft, age, sex, race, nationality, or creed." This has been no hollow pronouncement, but rather it has been rigidly adhered to and enforced.

At the present time more than two-thirds of our members are protected against discrimination in employment by clauses in our collective-bargaining agreements with the various corporations which specifically provide that there shall be no discrimination in hiring, firing, upgrading, or in treatment of workers in the plant because of race, creed, nationality, or origin. These nondiscrimination provisions have been demanded and won because of the importance we attach to the civil-rights issue. We shall not be content until each and every plant in which the workers are represented by the IUE–CIO has such a clause written into its collective-bargaining contract.

In addition to my position as secretary-treasurer of IUE–CIO, I also have the honor of being the chairman of our national civil rights committee. Similar committees are functioning in all 10 of our IUE–CIO districts throughout the country. Almost all of our 400 local unions have also established such committees to carry out our program at plant and local community levels.

I mention this, Mr. Chairman, to emphasize to this subcommittee that our interest in the field of civil rights is a very active one and one of top priority. It is because of this concern that we have asked to testify on these important measures.

The several bills presently before this subcommittee are in our opinion all positive steps toward reaching that goal of equal rights for all citizens. We would like in particular to endorse the omnibus civil rights bills, H. R. 51, H. R. 389, H. R. 702, and H. R. 3688 offered by Congressmen Addonizio, Powell, Rodino, and O'Hara, respectively. These bills would, among other things, provide for an FEPC, end segregation in interstate travel, strengthen existing Federal civil rights statutes, enlarge the Civil Rights Section of the Department of Justice by making it a special division under an Assistant Attorney General, prohibit segregation in Government-assisted housing, halt Federal grants to segregated schools, prevent and punish the crime of lynching, and protect the right of all citizens to exercise their voting privilege.

In considering such legislation, however, we are all well aware of the fact that while great and historic steps have and are being taken by the executive and judicial branches of the Federal Government to wipe out segregation and discrimination, the Congress of the United States has done absolutely nothing in this field for something like, I believe, 80 years.

The reasons behind this apathy on the part of Congress are well known. Built into the legislative structure are rules which give to a minority of the Congress veto power over any meaningful civil rights legislation. I need hardly tell the members of this subcommittee—the majority of whom, I am advised, favor the legislation being considered—of the difficulties faced in obtaining passage of such measures.

Even if effective civil rights legislation should be approved by the House Judiciary Committee the problem immediately rises of obtaining approval of the measures by the Rules Committee. If past performances of the Rules Committee are indicative of future action, the only way civil rights bills will reach the House floor will be by way of a discharge petition, which is at its very best a very difficult task.

An even larger obstacle lies in the Senate in the form of rule 22 which encourages filibusters by providing that cloture applies only with the approval of 64 Senators. Rule 22 has been the roadblock which killed off several civil rights bills passed by the House of Representatives in the past 18 years. The Gavagan antilynching bill passed the House in 1937 by a vote of 227 to 120 only to be filibustered to death in the Senate. Anti-poll-tax bills were approved by the House in 1942, 1943, and 1945 only to be suffocated again in the Senate by filibusters. Again in 1947 and 1949 the House passed anti-poll-tax bills but the Senate failed to act under threat of filibusters. Even the watered-down voluntary FEPC bill which passed the House in 1950 was stopped cold in the Senate due to a filibuster and the impossibility of obtaining the necessary 64 votes to end debate and permit a vote.

It is discouraging for groups which are sincerely fighting for the extension of civil rights to come before Congress year after year to testify in support of badly needed legislation, such as is being considered here, knowing full well that under Senate rule 22 no important bill of this type is even able to come to a vote. It must be equally frustrating, if not more so, to the Members of Congress who are concerned with enactment of civil-rights legislation.

The only way this intolerable situation can be remedied is for Americans, both in and out of Congress, who believe in equal rights for all Americans to rise in righteous indignation and demand that action be taken to change House and Senate rules so that civil-rights bills may be considered and passed. Those in Congress responsible for the frustration of this legislative program should be made known throughout the width and breadth of this country.

Neither the Democratic Party nor the Republican Party can escape their share of the blame for Congress' failure to take action. An analysis of the crucial civil-rights votes shows that northern Republicans have, in too many instances, sided with southern Democrats to block such legislation. The most significant vote in this area in recent years was cast by the Senate on January 7, 1953, when an effort was made by Senator Anderson and others to adopt new Senate rules, including one to apply cloture by majority rather than by a two-thirds vote. When Senator Taft moved to table this proposal only 5 of the 48 Republicans voted in support of Senator Anderson as compared with 15 of the 47 Democrats. Neither was a very proud record. Here was a clear case of Republicans lining up with southern Democrats to preserve the civil-rights gravedigger—rule 22.

I point out these obstacles in the path of civil-rights bills only for the purpose of urging vigorous action to avoid the pitfalls of the past. Those in Congress in the House and Senate, Democrats and Republicans alike, who stand in the way of such legislation should be publicly identified. I believe that the majority of the American people today, thanks to education and the hard work of many groups which

have concerned themselves with civil rights, desire Congress to take the lead in ending segregation and discrimination. The minority in Congress which opposes civil-rights legislation should be made to realize that the day of second-class citizenship is becoming a thing of the past and that the people of America are now seeking the largest possible expansion of democracy's horizons.

This subcommittee can render a very great service if it will not only approve the legislation before it, but also work diligently to secure its enactment by the full Judiciary Committee and the House of Representatives.

Mr. Chairman, we are discussing here today what is probably the No. 1 social issue of our country. There are 17 million Negroes in the United States, two-thirds of whom live in States which treat them as inferiors in every phase of life from the time they are born into this world until the day on which they die. The sin of racism is so immense that we all too often simply close our eyes to the enormity of this social and economic shame.

As leaders and as citizens in this critical century we in America cannot continue to condone the injustice being worked upon our Negro brethren. It is time that we end this national disgrace and put our own house in order.

Because of the large number of bills before this subcommittee, it would be too lengthy a process to testify on each separate proposal. As I have already stated, we endorse completely the various civil-rights measures contained in the four omnibus bills to which I previously referred.

There is one particular measure, however, which I desire to discuss briefly because of its particular significance to working people. I am referring to the proposal to prohibit discrimination in employment as contained in H. R. 51 and H. R. 702, title III; and H. R. 389 and H. R. 3688, title II, part 5.

Under the terms of this legislation, it would be unlawful for an employer to refuse to hire, to discharge, or otherwise discriminate in employment, because of race, religion, color, national origin, or ancestry, or to obtain assistance in hiring from sources discriminating for such reasons. It would likewise be unlawful for a labor union to discriminate or to limit, segregate, or classify membership so as to adversely affect employees or applicants for employment.

It provides for a Federal Commission which would investigate, conciliate, and adjudicate complaints involving such unfair employment practices. This body would be empowered to order cessation of such practices and to undertake remedial action, including hiring or reinstatement of employees with or without back pay. The Commission could petition Federal circuit courts of appeal to enforce its orders, and the Commission's directives could be reviewed by these courts.

Although there is considerable honest difference of opinion as to legislation such as this, there are not many people today who will dispute the fact that discrimination in employment does exist—especially against Negro workers. Such discrimination is by no means limited to the South. It exists in other sections of our country as well.

The Senate Committee on Labor and Public Welfare in Senate Report 2080 (1952) had this to say concerning evidence of discrimination in employment:

> No precise statistics of discrimination in employment exist There is no official and precise total of jobs denied, discharges, or promotions withheld on the basis of race, creed, color, national origin, or ancestry.
>
> But there are unfortunate indexes of discrimination—there are weather vanes which show that the winds of discrimination still blow; the arrows point in no one direction The ill wind comes from many quarters.
>
> Recent census figures (1950) show that the median annual income of white families and individuals is $3,647 and for nonwhite families and individuals, $2,021. As of February 1952 unemployment among white workers was 3.1 percent, but among nonwhites unemployment was 6 2 percent—precisely double. These are national figures In its first year of operation, 1949–50, the Oregon Fair Employment Practices Advisory Committee requested employers to submit their regular application forms. Of 260 submitted by employers, 166 contained unlawful inquiries about race, religion, ancestry, and the like Of 16 submitted by employment agencies 14 were improper. Similar experience is reported by other State commissions.
>
> The end of wartime FEPC marked a revival of discriminatory practices in areas which did not fill the void by local legislation. Thus, for instance, the Michigan State Employment Service, experienced a sharp upturn in employer requests for applicants which contained discriminatory specifications amounting to 65 percent of all 1948 job openings in the Detroit labor market. In that year there were 23,000 unfilled requests for workers that excluded workers of specified racial, religious, and nationality groups.
>
> Underutilization of manpower is as critical a problem as refusal to hire. To take an example, Negroes are widely employed. In the majority of cases they are relegated to menial tasks regardless of their training and experience or their potentialities. Negro women employees are concentrated in the domestic service field Negro men are most usually found in unskilled and semiskilled industrial work, custodial positions, and the like. Our World War II experience and that of States with enforceable fair-employment legislation show that minority workers, formerly excluded from jobs requiring skill and initiative, prove productive and responsible workers when given fresh opportunities to demonstrate their ability. It is equally apparent that fellow employees and supervisors readily accept such new employees

A staff report prepared in 1952 for the Senate Subcommittee on Labor and Labor-Management Relations entitled "Employment and Economic Status of Negroes in the United States" explored occupational trends from 1940 to 1950 and stated:

> Although appreciable gains in the occupational ladder have been made during the last decade, in comparison with white workers, Negroes are predominantly employed in the lower-paying and less-skilled occupations such as operatives, laborers, and service workers

The report also showed that 60 percent of the Negro women workers were employed in service occupations as of 1950. While the proportion of Negro women employed as clerical workers and semiskilled operatives increased between 1940 and 1950, there were still only 4 percent in clerical occupations as compared with 30 percent for all employed white women.

Among craftsmen the proportion of Negroes as of 1952 was only 4 percent, although Negroes make up more than 10 percent of the total population.

A study prepared in 1953 by the National Planning Association's committee of the South on employment practices in 108 plants, mostly tobacco and textile, in Virginia, Kentucky, and the Carolinas, indicated little change in discrimination practices since 1938. The research for this study was done by resident southerners.

Principal findings of this report which covered 105,000 workers, about 17,000 of whom were Negroes, were:

1. Negroes are never employed in white-collar jobs in white-managed plants.

2. Negroes hold almost no supervisory jobs and never exercise authority over white workers.

3. White and Negro employees seldom work side by side on the same operation.

It is, of course, true that in many instances the reason for Negro workers being at the bottom of the occupational ladder is because they have had less opportunity to obtain the education and training required for better jobs. A Federal FEPC law would not mean an immediate end to the employment roadblock which most Negroes face. Equal employment opportunities will be realized only when the Negroes have equal opportunities for education and training. But a Federal FEPC law would mean that qualified, trained Negroes would not be denied equal job opportunities as is the case generally today.

If the individual States would meet their own responsibilities in this vital area, there would be little need for Federal legislation. In recent years several States have passed FEPC laws, and today there are 15 States with such legislation, including a few with voluntary FEPC laws. Census figures show, however, that only 15 percent of the country's Negro citizens live in these States. The vast majority of Negroes, therefore, are still denied the benefits and protection of equal job opportunities.

The question which we raise is whether democratic America—in its position of world leadership—can in good conscience permit the continuation of this terrible injustice against Negro workers. It is the considered judgment of both the CIO and IUE–CIO that the answer must be an unequivocal no.

It will be contended, of course, that morality cannot be legislated and that first of all a change in attitude must be accomplished through the process of education without coercion of law. In answer to this we say that legislation by the Federal and State Governments does not merely prescribe and proscribe certain lines of conduct but it also very often actually affects the attitudes of the people. In short, legislation can and often does serve an educational function.

Highly pertinent to this viewpoint was a thoughtful article entitled "Can Morality Be Legislated" which appeared in the New York Times magazine on May 22, 1955. I request of the subcommittee that this article be inserted at the end of my testimony for inclusion in the printed record. I have a copy of it available here.

Mr. LANE. That will be done.

Mr. HARTNETT. The authors of this article contend that the law itself plays an important role in the educational process. Here, in part, are their conclusions:

> But, while laws may restrain behavior, is there any evidence to indicate that attitudes are affected. Here the evidence seems clear: the law itself plays an important part in the educational process. Again the key to analysis is the social situation.
>
> Legislation and administrative orders which have prohibited discrimination in such areas as employment, the Armed Forces, public housing, and professional associations have brought people of various races together—often with initial reluctance—in normal day-to-day contact on an "equal-status" basis where the emphasis is on doing a job together. Contact of this kind gives people a chance to know one another as individual human beings with similar

interests, problems and capabilities. In this type of interaction racial stereotypes are likely to be weakened and dispelled.

The experience of the various States which have FEPC laws, and of business and trade unions which have eliminated job discrimination indicates quite clearly that a satisfactory solution can be achieved. Once people of different races and complexions come together, work together and know each other as fellow human beings the prejudices, hatreds, and fears instilled since childhood usually diminish. A Federal FEPC law can and will have this same healthy effect.

Mr. Chairman, as I have already stated, the problems involved in obtaining enactment of effective civil rights legislation are difficult ones. But they are problems which should and must be faced up to. This subcommittee can, by approving the omnibus bills presently before it and by working for their adoption by the full committee, render a great service to the cause of human freedom and democracy's prestige throughout the world.

The time for straightforward legislative action is long overdue. Political, economic and social morality cannot extenuate congressional apathy and reluctance to legislate in this field which directly affects millions upon millions of our people. We are hopeful that these hearings will not be an end but rather a beginning by Congress in the huge humanitarian and democratic task of achieving social justice for all regardless of race, color, religion, or national origins.

Congress' responsibility in this matter could very well prove more portentous than in any other area of our national life—because the advances projected in this legislation involve not only democratic unity at home but the winning of millions of allies abroad in today's climatic struggle between totalitarianism and freedom, human debasement and human dignity.

May I add that I have had an opportunity to read the testimony to be presented to your subcommittee by the United Auto Workers-CIO. The IUE-CIO enthusiastically supports the views and proposals advanced by the UAW-CIO.

Before closing, Mr. Chairman, there has been a matter of considerable interest and import to our Nation and to the world as a whole, which has occurred in the past 2 weeks, and that has been the meeting at the summit. The results of that meeting at the summit, I think, were expressed by President Eisenhower upon his return to Washington just a few days ago. He spoke about, as I recall the words, a new feeling of neighborliness that existed in the world. Well, with two-thirds of the world's people being of a color different than mine and that of the members of the subcommittee, I hardly find it conducive to exploiting or expanding on this feeling of neighborliness if we within our own borders can think of the kinds of acts that are demonstrated so frequently in discrimination against people in their employment, in their ability to travel in public conveyances, in their ability to be free to cast a ballot, and in so many fields in which one finds discrimination.

I think that perhaps, as this testimony says in its printed form, this is the most important single piece of legislation that might be considered by the Congress of the United States. We may be here considering the peace of the world in years to come, we may be here, as we design legislation to wipe out the evil of discrimination, building a

very firm foundation for the expansion of this new neighborliness which some of our people believe exists in the world. I submit to you and to all Members of Congress that serious consideration ought to be given to this most recent portion of my remarks, and that is that the peace of the world is in many respects tied up with passage of the kind of legislation which we are discussing here today.

That concludes my report, Mr. Chairman, and my testimony, and I would be glad to answer any questions which you may have.

Mr. LANE. Thank you, Mr. Hartnett. We appreciate your testimony here today. You have given an excellent and well-prepared statement, and one which goes to the heart of this question. I know that it will help the members of this committee to decide what is best to do.

These bills before us, as you say, may involve some of the most important pieces of legislation to confront the Congress at this time.

You know that in the past some of these Communist groups have been working on our employees in industries, and have been trying to show to them or prove to them, and have been telling the world about, their devotion and their work and their friendship toward civil rights.

As one of the outstanding leaders in the CIO, and the International Electrical Workers Union, I wonder whether or not you have anything to say concerning that claim of those Communist groups who try to wean away some of our good and honest, God-fearing employees in these industries?

Mr. HARTNETT. Well, Mr. Chairman, I do not think there is any more hypocritical group in the world on the question of civil rights than the Communist group. It is known that we, during the past 6 years, and as a matter of fact, before that time, had considerable difficulty within our own organization in winning over the employees in the industry to our way of thinking.

On the specific question of the Communist views on civil rights and civil liberties, I could talk about a number of instances, and one which occurs to me immediately is one which occurred during the last war when it was very unfashionable, as most of us will recall, to talk in any disparaging terms about the Communists. A couple of labor leaders were seized by Stalin and his government—a couple of fellows named Ehrlic and Alter, Polish labor leaders—and these men were seized for some reasons which are not yet quite clear. We believe they were given a trial, or at least we were told they were given a trial, but it was held in secret. No one can be certain that a trial was held, but the fact of the matter is that the two men were summarily executed and we do not know what the crime was with which they were charged. In this country, as well as in other of the freedom-loving countries of the world, meetings of protest were held and one of the meetings was held at Madison Square Garden, in New York City, to protest the slaying of two labor leaders who had fought the good fight for democratic trade unionism, and to protest the fact that they were slain and executed, murdered, if you will, without a trial, and without at least a decent trial.

James B. Carey, secretary-treasurer of the CIO, addressed that meeting at Madison Square Garden, which was attended by thousands upon thousands of people, and he delivered a blistering attack upon a process which deprived people of a fair trial and executed them for

being nothing more than decent democratic leaders of a trade-union group. Carey was not held or accepted with a great deal of pleasure by the Communist movement in this country. His own international union, the UE, which had a few years before dumped him from the presidency because of his opposition to the Communist elements, spoke out and condemned him because of his plea for civil rights and civil liberties for a couple of trade unionists.

A more recent example is one which caused a great deal of discussion: You recall the so-called doctors' plot in the Soviet Union when the accusation was made that certain physicians or doctors were planning to get rid of most of the Russian hierarchy, including Stalin. The doctors were thrown into jail and people throughout the world held their breath for fear that 2.5 million Jews would face extermination in Russia. Protest meetings were called Our international union held various protest meetings. We held a protest meeting in New York at which Senator Morse spoke and numerous others participated with us in that same meeting. However, all the time that this was going on not one single word of protest appeared in the Communist Daily Worker, nor in the UE News, or any other publication of the leftwing in this country, protesting the fact that the Russians were on the verge of exterminating 2.5 million Jews. To the contrary, they found time only to talk about the saving of the lives of two people. Their newspapers were filled at that time with articles having to do with saving the lives of a couple of atomic spies, the Rosenbergs. That was the sole thing which they were concerned with.

There were some other people who were in Communist jails around the world, including Cardinal Mindszenty, and I believe there were some American fliers who had been unjustly jailed, but I find not a single word of protest against those jailings or against those imprisonments.

To the contrary, let us pick up in this country 11 Communists for conspiracy to overthrow the Nation by violent force and you may have all sorts of resolutions and condemnations. More directly than that, at home I had been in various compaigns in which the UE—that is, the union I would be most familiar with aside from my own—campaigned against us on the basis that if you accepted the CIO into your plant, then you would be faced with the possibility of Negro stewards and Negro bosses. That took place in Essington, Pa., in a Westinghouse plant, and that was part of their campaign.

You ask me, Mr. Chairman, about the Communists' devotion to civil rights and civil liberties. When the civil rights or civil liberties belong to some Kremlin stooge or some emissary of the Communist Party, then, and only then, will they advocate the protection of civil rights and civil liberties.

Mr. LANE. You have had experience, I know, Mr. Witness, with your own organization seeking civil-rights legislation?

Mr. HARTNETT. Yes.

Mr. LANE. Do you wish to comment further on that subject?

Mr HARTNETT. Very frankly, we find the civil-rights legislation in effect today is not even sufficient to assure our constitutional rights. I have in mind a very distasteful situation that exists today that indicates very clearly that a person's constitutional rights can be harmed and handicapped by the lack of decent civil-rights legislation.

In a small plant in Carrollton, Ga., we were asked by people who lived there to organize the plant. I dispatched an organizer there. Our organizer got to Carrollton and was advised, "Before you start organizing, you had better check the town ordinance."

So our organizer checked the town ordinance and found that that ordinance provided that before you can start organizing a plant you must apply to the mayor and city council and secure a license. The cost of that license is $1,000. Then, in addition to the payment of the $1,000, for every 24-hour period he spends in the town organizing workers, he must pay an additional $100. In other words, if we were to put an organizer there on a yearly basis it would cost 365 times $100 plus the initial payment of $1,000.

Mr. LANE. Where is that?

Mr. HARTNETT. Carrollton, Ga. So men and women are denied the constitutional right to belong to a labor union of their own choosing. We consider this a very important case. We have taken it to the district courts. Our first efforts in the district courts have been unsuccessful. We spoke to the Civil Rights Division of the Department of Justice and asked them for a hand with this suit. They tell us they cannot do it because this is a civil action and they can only become involved as the Civil Rights Division of the Department of Justice in a criminal action.

We went to the Department of Justice itself and they said it is not of their concern or consideration.

We went to the National Labor Relations Board, to the General Counsel of the National Labor Relations Board, and said, "Your organization will be put out of business by this kind of ordinance." We said, "Not only does it limit our rights to organize, but it limits your functions."

The General Counsel said he was interested, and he wrote us a letter to that effect.

All these things point out that the civil-rights legislation in effect is grossly inadequate.

Mr. LANE. You have met with all kinds of stumbling blocks?

Mr. HARTNETT. We have met with all kinds of stumbling blocks. Oftentimes you hear it said that unions are out to get dues. There may be 100 people in this plant in Carrollton, Ga. If we were to organize them into our union—and it is conjectural whether we could win an election—we would receive $1 a month per capita. We have spent from $9,000 to $10,000 so far in order to assure we will be permitted to go ahead and organize, and we have only scratched the surface. Regardless of the cost of that case we are going ahead because we are earnest in this fight for civil rights and civil liberties. We want to be heard on the merits in that case and we hope in the meantime to get some help in the form of civil-rights legislation. Then maybe we can get the Civil Rights Division of the Department of Justice to get interested in cases other than criminal cases, and maybe the Department of Justice itself can give us a hand, and maybe the National Labor Relations Board, if they get help from the Congress, will give us a hand.

We find a confining of civil rights and civil liberties being used to make impossible organization into free trade unions, and that to us verges very closely, if it is not completely so, on a state of fascism, and that we will resist as much as we can.

Mr. LANE. Your union is to be commended for trying to do something about that situation. I believe Mr. Burdick has a question.

Mr. BURDICK. In paragraph 2 on page 2 of your statement you say:

> At the present time more than two-thirds of our members are protected against discrimination in employment by clauses in our collective-bargaining agreements with the various corporations which specifically provide that there shall be no discrimination in hiring, firing, upgrading, or in treatment of workers in the plant because of race, creed, nationality, or color.

Why are not all of them protected against such discrimination?

Mr. HARTNETT. We would desire that they all be covered. They are not covered because the employers pretty generally resist a nondiscrimination clause in our collective-bargaining agreements.

For example, General Electric is no doubt the biggest corporation in the field. We have been fighting with General Electric ever since our existence 5 years ago to secure a provision in the agreement that there shall be no discrimination because of sex, and they have successfully resisted the inclusion in the agreement of a provision against discrimination because of sex. We are taking up the fight again this year and hope we will be able to resolve the issue. We do not know that we can. We cannot say that all our members are covered by nondiscrimination clauses under those circumstances.

There is a reason for General Electric resisting the inclusion of such a clause in the agreement. If the women are paid similar rates as men in similar jobs, then General Electric will have its big profits dipped into just a little bit. And, in the case of Westinghouse, if Westinghouse does not have to keep married women maybe they can get young girls and unmarried people who are undisturbed by reason of having children at home and can bring more production into the company.

Mr. BURDICK. In many instances the opposition of the employer prevents you from inserting nondiscrimination clauses in the collective-bargaining agreements?

Mr. HARTNETT. In every case where we do not have it, it is because of opposition on the part of the employer and not because we have not pushed for it. There is no exception to that.

Mr. BURDICK. I think the CIO has done a wonderful piece of work in getting the nondiscrimination clause in as many collective-bargaining agreements as they have been able to. That settles the question right there.

Mr. HARTNETT. It settles it right there, but we cannot get it as fast as you and I both would like it.

Mr. BURDICK. Do you not think the denial of civil rights is the denial of the protection of the Constitution of the United States?

Mr. HARTNETT. I certainly do, if we are to believe the preamble to our Constitution.

Mr. BURDICK. In other words, if we do not take action on civil rights we will deny a large portion of citizens of the United States a right to be protected by the Constitution of the United States?

Mr. HARTNETT. That is exactly right.

Mr. BURDICK. Here is another thing. I think you made a very alarming statement here, perhaps you did not know it.

Mr. HARTNETT. I hope I did, anyway.

Mr. BURDICK. In the last paragraph on page 8 you said:

The question which we raise is whether democratic America—in its position of world leadership—can in good conscience permit the continuation of the terrible injustice against Negro workers.

In other words, our position before other nations of the world is crippled where we ourselves are denying our citizens these rights.

Mr. HARTNETT. I think that is perhaps the most important single item in the entire statement.

Mr. LANE. In other words, we should practice what we preach?

Mr. HARTNETT. Absolutely. I do not see how we can attract the people of India to us as long as we make a distinction because of color or creed or any other reason. If there is a conflict in the years to come, I do not want to see it. It would seem our own desire for peace and our own Americanism should dictate to us that this is the thing to do, to make sure every American has equal opportunity. Then we can say to the rest of the world, "See what you get in democratic America."

We ought to advertise, as advertising men do, the best products we have. We ought to be able to point out that in America you can get everything that is fine and decent.

Mr. BURDICK. Is that not about as good an argument as you can make against communism?

Mr. HARTNETT. It is, but communism is left with a weapon as long as they can point to one lynching or point to the fact a person cannot get a job because he is a Catholic or a Negro.

Mr. BURDICK. I want to compliment you on your written statement.

Mr. HARTNETT. Thank you.

Mr. BURDICK. And I want to compliment you more on your offhand statement.

Mr. HARTNETT. Thank you.

Mr. BURDICK. That shows your thinking without deliberation.

Mr. HARTNETT. Thank you.

Mr. LANE. And we thank you for coming before our committee.

Mr. BOYLE. Before we conclude his testimony, I want to ask this question.

Mr. LANE. Mr. Boyle.

Mr. BOYLE. Coming back from this whole panoramic international view, what has been your union's experience with respect to the fate of Negroes in administrative or clerical jobs?

Mr. HARTNETT. Our experience—speaking for the entire CIO—has been that Negroes in administrative or supervisory jobs are practically unknown. They are very few and far between. Likewise, there are very few in the so-called white-collar jobs, typists, and so on.

I think that is traced back to the fact most of these workers are not organized. White-collar workers for the most part are not organized. The progress that has been made in many other areas of corporations is directly traceable to the fact unions have been in there fighting a good fight.

I could take my own union in the Electric Storage & Battery Co., represented by local 113 of our union, which I could say is the finest local union in the country. We had Negroes in every job possible. There was not the remotest discrimination or segregation in that bargaining unit. But when you walked from the bargaining unit to

the white-collar unit, which was not organized, you could not find a Negro. You could not find, sometimes, anyone of a different religious conviction. I could not say what the factual situation is today among these white-collar workers, but I would venture to say the number of Negroes in white-collar positions is negligible. Every position in the bargaining unit is open to Negroes.

Mr. BURDICK. I think you have accomplished more through your organization than Congress has through legislation.

Mr. HARTNETT. That is because of the reluctance on the part of Congress to pass civil-rights legislation. There is no reluctance on our part.

Mr. BURDICK. I do not belong to the CIO, but I admire it for its work.

Mr. HARNETT. We would be delighted to have you as a member.

Mr. LANE. Again, we thank you for your testimony and the illustrations you have given of how this program is working in the electrical industry and the feelings of the CIO organization. We have great respect and admiration for the CIO organization, and I want to endorse the feeling of my colleague that you have done a good job in organizing the workers of America.

Mr. HARTNETT. Thank you, Mr. Chairman.

(The following paper, entitled "Can Morality Be Legislated?" was submitted for the record by the witness:)

[From the New York Times magazine, May 22, 1955]

CAN MORALITY BE LEGISLATED?

(By John P. Roche and Milton M. Gorden)

"Yes," say these observers, as the Supreme Court's desegration decrees are awaited. Under certain conditions, "the majesty of the law not only enforces, but creates, morality."

The Supreme Court is pondering its decision on how and when to carry out its ruling of a year ago that public school segregation is unconstitutional. It is therefore timely to examine the relationship between law and mores, between the decrees of courts and legislatures and the vast body of community beliefs which shape private action.

While it is not perhaps customary to think of the Supreme Court as a legislative body, the cold fact is that in the desegregation cases, the nine Justices have undertaken to rewrite public policy in at least 17 States and innumerable communities Indeed, it would be difficult to find a recent congressional enactment that equals in impact and scope this judicial holding. Whether one approves or disapproves of such judicial acts, it is clear that the court has undertaken a monumental project in the field of social engineering, and one obviously based on the assumption that morality can be legislated.

Opponents of the desegregation decision have, with the exception of a fringe of overt white supremacists, largely founded their dissent on the principle that law cannot move faster than public opinion, that legal norms which do not reflect community sentiment are unenforceable. They cite the dismal failure of prohibition as a case in point, urging that basic social change, however, desirable, must come from the bottom, from a shift in grassroots convictions.

On the other hand, the Court's supporters maintain that virtually every statute and judicial decree is, to some extent, a regulation of morality. Indeed, they suggest, if the moral standards of individuals were not susceptible to state definition and regulation, we would never have emerged from primitive barbarism.

In this article, we shall examine from the viewpoint of the social scientist the evidence on both sides of the question, and see if it is possible to extract any meaningful conclusions.

First of all, we must delve into the relationship that exists in a democratic society between law and community attitudes. While this is a treacherous area, full of pitfalls for the unwary generalizer, it seems clear that, as distinguished

from a totalitarian society, law in a democracy is founded on consensus. That is to say that the basic sanctions are applied not by the police, but by the community. The jury system institutionalizes this responsibility in such cases as mercy killings or those involving the unwritten law by finding citizens who have unquestionably killed not guilty.

Conversely, juries applying other sections of the criminal code—notably those penalizing subversion—will often bring in verdicts of guilty based not so much on technical guilt as upon the proposition that the defendant should be taken out of circulation. In another area of the law, insurance companies, faced with damage suits, have learned to shun juries like the plague. Indeed, they will frequently make unjustified out-of-court settlements in preference to facing a jury that begins its labors with the seeming assumption that no insurance company of any standing would miss $100,000.

From this it should be clear that in the United States law is a great deal more, and simultaneously a great deal less, than a command of the sovereign. Thus one can safely say that no piece of legislation, or judicial decision, which does not have its roots in community beliefs, has a chance of being effectively carried out.

To this extent, it is undeniable that morality cannot be legislated; it would be impossible, for example, to make canasta playing a capital offense in fact, even if the bridge players' lobby were successful in getting such a law on the books. This is a fanciful example, but in our view the Volstead Act and the 18th amendment were no less unrealistic in objective; like H. L. Mencken's friend, Americans seem willing to vote for prohibition as long as they can stagger to the polls.

Excluding these extreme efforts to legislate morality, which are obviously unsound, we now come to the heart of the problem: Under what circumstances will an individual accept distasteful regulation of his actions? To put it another way: What are the criteria which lead an individual to adjust his acts to the demands of the state?

Specifically, why do people pay taxes when they disagree strongly with the uses to which the money will be put? A large-scale tax revolt, as the French have recently discovered, is almost impossible to check without recourse to martial law and police state methods, but the average taxpayer grouses and pays. While Americans are not, by and large, as law abiding as their British cousins, it is probably fair to say that most of us obey most laws without even reflecting on their merits.

This problem of the basis of legal norms has proved a fascinating one to sociologists. In the past 15 years some significant new thinking on the subject has grown out of empirical research, more incisive analysis; and general observation of large-scale experiences with legal desegregation in important areas of American life such as employment, public housing, and the Armed Forces.

The old categorical view stated in classic fashion by the sociologist, William Graham Sumner, was that law could never move ahead of the customs or mores of the people—that legislation which was not firmly rooted in popular folkways was doomed to failure. The implication was that social change must always be glacierlike in its movement and that mass change in attitudes must precede legislative action.

The newer viewpoint is based on a more sophisticated and realistic analysis of social processes. In the first place, it questions the older way of stating the problem in terms of all or nothing. Any large, complex society, with its multiplicity of social backgrounds and individual experiences, contains varying mores and attitudes within itself. On any given piece of legislation there will not just be supporters and enemies; rather there will be many points of view, ranging from unconditional support, through indifference, to unmitigated opposition.

Thus, the degree of success that will attend such an enactment is the result of a highly complex series of interactions and adjustments among people with diverse atitudes toward the measure itself and toward the imposition of legal authority. Furthermore, it is predictable that a large segment of the population will be basically neutral, if not totally indifferent.

To put the matter in an even broader framework, the prediction of behavior must take into consideration not only the attitudes of the individual but also the total social situation in which his behavior is to be formulated and expressed. For instance, people with ethnic prejudice are likely to express themselves in a social clique where, anti-Semetic jokes are au fait, but will restrain themselves in a group where such remarks are greeted with hostility. Once the bigot realizes that he must pay a social price for his anti-Semitism, he is likely to think twice before exposing himself to the penalty.

In this connection, Robert K. Merton, Columbia sociologist, has set up an incisive classification, suggesting that four major groups can be delineated:

(1) The all-weather liberal, who can be expected to oppose prejudice and race discrimination under any set of social conditions; (2) the fair-weather liberal, who is not himself prejudiced, but who will stand silent or passively support discrimination if it is easier and more profitable to do so; (3) the fair-weather illiberal, who has prejudices, but is not prepared to pay a significant price for expressing them in behavior, preferring rather to take the easier course of conformity; and (4) the all-weather illiberal, who is prepared to fight to the last ditch for his prejudices at whatever cost in social disapproval.

If we apply this classification to such a problem as desegregation, it immediately becomes apparent that the critical strata, so far as success or failure is concerned, are groups (2) and (3). Group (1) will support the proposal with vigor and group (4) will oppose it bitterly, but groups (2) and (3) will carry the day.

But because groups (2) and (3) are not crusaders, are not strongly motivated, they are particularly susceptible to the symbolism of law. Thus the fact that fair-employment practices have been incorporated into law, or that the Supreme Court has held school segregation unconstitutional, will itself tend to direct their thinking toward compliance.

The symbols of state power are to the undedicated nonrevolutionary mighty and awesome things, and he will think long and hard before he commits himself to subversive action. Consequently, the law tends to become, in another of Merton's phrases, a "self-fulfilling prophecy"; that is, a statute tends to create a climate of opinion favorable to its own enforcement. As John Locke long ago pointed out, the great roadblock to revolution is not the police but the habits of obedience which lead the law-abiding majority to refrain from even legitimate and justified resistance.

American experience over the past decade and a half seems to confirm this hypothesis. By legislative action, executive order, and judicial decision, the race prejudices of Americans have been denied public sanction. Fair employment practices commissions, of national scope during the war and subsequently operative in a number of States and municipalities, integration of the Armed Forces, integration of many segregated schools, elimination of white primaries and removal of racial restrictions in many professional associations—all these have provided a living laboratory for the study of the impact of law on the mores.

At virtually every stage in the development, strong voices were raised to plead that morality could not be legislated, that an end to discrimination must await an unprejudiced public. Yet, the results indicate a high degree of compliance, some covert evasion, and only a few instances of violent resistance.

Moreover, it should be kept in mind that the success of desegregation laws or orders need not be measured against a hypothetical standard of 100 percent but against the usual standards of law enforcement. Even laws against homicide and rape, which have overwhelming community support, are occasionally violated.

But, while laws may restrain behavior, is there any evidence to indicate that attitudes are affected? Here the evidence seems clear: the law itself plays an important part in the educational process. Again the key to analysis is the social situation.

Legislation and administrative orders which have prohibited discrimination in such areas as employment, the Armed Forces, public housing, and professional associations have brought people of various races together—often with initial reluctance—in normal day-to-day contact on an equal-status basis where the emphasis is on doing a job together. Contact of this kind gives people a chance to know one another as individual human beings with similar interests, problems, and capabilities. In this type of interaction racial stereotypes are likely to be weakened and dispelled.

Such a favorable change of attitude as a result of personal contact has been reported in a number of studies. In one carefully designed research project, Morton Deutsch and Mary Evans Collins found that white housewives who had been assigned to public housing projects which were racially integrated tended to develop favorable attitudes toward Negroes, while the vast majority of those who occupied segregated housing tended to remain the same in their racial views. A study of integration in the Army reached a similar conclusion.

Findings such as these support a considerably broader and more complex conception of the relations between legal norms and human acts and attitudes than did the older, simpler Sumner thesis. In this more comprehensive analysis,

law itself is seen as a force which, in its impact, does more than prohibit or compel specific behavior. Indeed, in its operation, law actually provides the setting for types of social relationships—relationships which may have a profound effect on the very attitudes which are necessary to adequate enforcement of the statute in question.

We thus come down to the final and crucial problem. It is plain that under some circumstances morality can be legislated, while under other conditions, the laws prove impotent. But what are the specific factors which must be evaluated? What criteria can be offered as a guide to intelligent and effective action in these touchy areas of belief, superstition, and vested prejudice? The following four considerations are suggested as a beginning:

First, the amount of opposition and its geographical spread. If a random of 15 percent of the population, roughly gaged, opposed some regulation, there will probably be little difficulty in gaining public acceptance and enforcement. However, and this is particularly relevant to the desegregation problem, if the 15 percent all live in one compact geographical area where they constitute a majority, control local government and supply juries, the magnitude of the problem is much greater.

Second, the intensity of opposition. This is a qualitative matter, for, to paraphrase George Orwell, while all Americans are created equal, some are more equal than others. A proposal which is militantly opposed by opinion-formers in the American community—for example, ministers, lawyers, newspaper editors—will have much harder sledding than a nose count of the opponents would seem to justify, and, conversely, a measure which receives the support of this key group, or significant segments of it, can overcome a numerically large resistance.

Much of the success of the Negro in overcoming his legal, social, and economic disabilities has been an outgrowth of the strong stand on his behalf taken by church leaders, journalists, trade unionists, businessmen, and politicians who have created a climate of opinion favorable to Negro claims and who have based their assertions on the values which constitute the American creed: Equality of treatment under law and human brotherhood under God. With this quality of support, much can be accomplished even against great numbers.

Third, the degree to which sanctions can be administered. Here we turn to the practical problems of enforcement, and it is at this point that prohibition really should have run aground long before it was incorporated into public policy. Home manufacture of alcoholic beverages has, according to well-informed sources, even survived in the Soviet Union, and if the MVD is incapable of banning private brew, there is little reason to suspect that a democratic society could handle the job.

It cannot be emphasized too often that general principles of morality are no stronger than the instruments by which they are implemented; it would thus be legislative folly to try to prohibit people from disliking Jews, Negroes, Catholics, or Protestants. However, making gin in the bathtub, or disliking minorities, is not action equivalent to segregating schoolchildren on the basis of their pigmentation.

Because it is nearly impossible to regulate what goes on in millions of private homes, it does not follow that enforcement of desegregation in public institutions will be equally difficult. In sum, false and misleading analogies must be avoided, and each proposal must be examined on its merits to determine whether or not it is enforceable.

Fourth, the diligence of enforcement. It is extremely important that enforceable regulations be diligently enforced. This is particularly true in the initial period when public attitudes (specifically, the attitudes of Merton's group (2) and (3) are in the process of formation. Flagrant refusal to obey usually is designed as a symbolic act to rally the undecided, and strong action at such a time will convince many wavering minds that the best course is compliance

The Milford, Del., episode, where parents, stirred up by agitators, refused to send their children to a desegregated school, is a good case of study of what should not happen; their vigorous action by the State authorities, such as occurred under similar circumstances in Baltimore, would have dampened the ardor of the fanatics and decimated their fellow travelers. The danger is that successful symbolic defiance plants the dragon seed and brings into the resistance movement those who would otherwise remain interested and sympathetic spectators—at a distance.

In short, to ask, "Can morality be legislated?" is actually to pose the wrong question. What types of morality, under what conditions, and with what tech-

niques for enforcement are qualitative considerations which fragment the question into more answerable units. Our analysis suggests that, although large-scale local considerations may call for special circumstances of implementation, the majesty of the law, when supported by the collective conscience of a people and the healing power of the social situation, in the long run will not only enforce morality but create it.

(NOTE.—This article was written prior to the Supreme Court decision of May 31, 1955, assigning to the lower courts the responsibility for seeing that its desegregation decision is carried out as promptly and completely as local conditions permit.)

Mr. LANE. I will call as the next witness Congressman Diggs, of Michigan, who was scheduled to testify this morning but because of other engagements he was not able to be with us but he is here this afternoon and I would like to know if he would like to say a word or two at this time.

Congressman Diggs is the author of H. R. 3578, H. R. 3579, H. R. 3580, H. R. 3581, H. R. 3582, H. R. 3583, and H. R. 3585, and is one of the Members of Congress who is vitally interested in this subject. We will be pleased to hear from him at this time or later, if he desires.

STATEMENT OF HON. CHARLES C. DIGGS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DIGGS. Mr. Chairman and members of the committee, I appreciate your indulgence. I was not here this morning because, as you know, the session is drawing to a close pretty fast and there are times one is not able to do all the things he is scheduled to do.

In looking over the list of people who were to testify this afternoon, I was very happy, first of all, to see that it was a representative group. It does indicate that support for measures of this kind does come from diversified sources, and that we are not dealing solely with a so-called Negro question, but we are dealing with a question whose general acceptance is apparent as it affects more than one group. I was glad to see the witness who just stepped down emphasize the relationship between this human relationship question we are dealing with and the world situation.

In passing I would like to say I am happy to see so many distinguished representatives of organizations here who I know have been fighting for civil rights for a long time.

I am particularly happy to see in that group a person who is a constituent of mine, Mr. Bill Oliver.

During my few months in Congress I have noticed a growing change in the thinking on this legislation. I know some of you realize this is one of the few hearings that has been held on legislation of this kind, and that there are changes in thinking as it relates to this legislation.

Of course none of us are satisfied with hearings alone; we want action on this legislation, and I think the hearings we have been granted are a prelude of action to come.

Thank you.

Mr. LANE. Thank you.

The next witness is Mr. Paul Sifton, national legislative representative of the UAW-CIO.

Mr. SIFTON. Mr. Chairman, Mr. William H. Oliver, codirector of the fair practices and antidiscrimination department of the UAW-

CIO, and I will present the statement for the UAW-CIO. Mr. Oliver will carry the principal part of it, if that is agreeable to the chairman.

Mr. LANE. You may proceed.

STATEMENT OF WILLIAM H. OLIVER, CODIRECTOR OF THE FAIR PRACTICES AND ANTIDISCRIMINATION DEPARTMENT, UAW-CIO, ACCOMPANIED BY PAUL SIFTON, NATIONAL LEGISLATIVE REPRESENTATIVE, UAW-CIO

Mr. OLIVER. Mr. Chairman and members of the committee, my name is William H. Oliver. I am codirector of the fair practices and antidiscrimination department of the UAW-CIO. The other codirector is President Walter P. Reuther, who I am sure would have been here today to testify had we had earlier notice of these hearings. Mr. Reuther presented the first testimony for our organization back in 1947, and we had a reprint of that testimony and it was distributed pretty broadly.

With me today, as Mr. Sifton has stated earlier, is Mr. Paul Sifton, national legislative representative.

We are very pleased to have the opportunity to be here this afternoon. We feel that it is an obligation of ours to appear and present testimony here in support of the many civil-rights bills which are pending before this committee, as well as FEPC and other civil-rights measures.

Because we have a rather lengthy statement, Mr. Chairman, I would like to request that this prepared testimony be made a part of the official recorded record.

Mr. LANE. Would you like to have that done at this point in the record?

Mr. OLIVER. Yes, please.

Mr. LANE. We will be glad to make it a part of the record at this point.

(The statement referred to is as follows:)

STATEMENT TO THE HOUSE JUDICIARY COMMITTEE IN SUPPORT OF AN EFFECTIVE FEDERAL FEPC AND OTHER CIVIL RIGHTS BILLS, PRESENTED BY WILLIAM H. OLIVER, CODIRECTOR OF THE FAIR PRACTICES AND ANTIDISCRIMINATION DEPARTMENT, UAW-CIO, AND PAUL SIFTON, NATIONAL LEGISLATIVE REPRESENTATIVE, UAW-CIO

Mr. Chairman and members of the committee, this is the fifth time in 8 years that representatives of the UAW-CIO have appeared before congressional committees to state the need for an effective Federal FEPC law.

Today, as we shall show later, with more than 2½ million unemployed, the unemployment rate among nonwhite workers is twice as high as the unemployment rate among white workers.

Again we plead that fine words and political party platforms, campaign speeches, and bills that heretofore have died in committee files or on House and Senate Calendars be carried all the way through to enactment and enforcement with adequate funds.

We recognize the hard fact that any effective FEPC bill and any other substantial civil-rights bill faces rough going in the 84th Congress, either in the first session now drawing to a close or in the second session, starting in January 1956.

We recognize the fact that the way has been made harder for such legislation because we do not have majority rule in the United States Congress.

The American people may propose and plead; by using the discharge petition to get them to the floor, the House may pass FEPC and other civil-rights bills. But an anti-FEPC, anti-civil-rights minority in the Senate operating under Senate rule 22 stands ready to try to block and defeat the will of the majority of the American people, of the Members of the House and of the Senate by resorting to—or by threatening to use—the filibuster.[1]

These obstacles can be overcome by determination and stamina of the type displayed by the enemies of civil-rights legislation.

The House Rules Committee's pocket veto can be set aside; the Senate filibuster can be broken when the majority decides to break it by wearing the filibusterers down and out, meanwhile dramatizing for the American people the fact, too little known and understood, that we do not have majority rule.

Despite the threat of veto-by-filibuster, the House hearings are worthwhile

Faced with the continual threat of veto by filibuster, the most undemocratic and antidemocratic feature of our Federal Government and one which we contend is unconstitutional,[2] we nevertheless deem these very brief 3 days of hearings on some 53 civil-rights bills, including FEPC, of major importance. We consider it a duty to present again for the fifth time a comprehensive statement in support of effective civil-rights legislation and, particularly, a law that will establish an effective Federal FEPC, such as is provided in the Powell bill (H. R. 690) and identical or similar bills introduced by other Members of the House.

We urge your committee to report out such a bill and to follow up such action by pressing with the greatest determination for consideration, debate, and final vote by the Members of the House. If the House Rules Committee, which is controlled on many vital matters by a bipartisan coalition of southern Democrats and Republicans, refuses to report out the bill, we hope that a discharge petition will be circulated early in the second session in order to make sure that the measure can be brought to the floor early in that session.

Although all this effort, expenditure of time and money by organizations and individuals devoted to the cause of establishing fair employment and other civil rights may be frustrated by the roadblock of the filibuster, the undertaking is worthwhile. It gives an opportunity to bring before the Members of the Congress and before the American people the up-to-date story of ways in which our pretensions and our fine words about freedom and democracy and equality of opportunity are made bitter on the tongues of some 20 million Americans who are discriminated against as members of minority groups and are contradicted by the day-to-day facts of discrimination as seen and heard by the peoples of other nations.

The report and recommendation of your committee and the debate upon the bills you recommend will prick the conscience of the Congress and of those among the American people who may have been given the impression that actions by State and local governments are adequate to meet the needs.

More than same solemn political Virginia reel is needed

On March 2, 1954, in a statement presented for the CIO and the UAW-CIO, President Walter P. Reuther told a congressional committee (the Senate Labor and Public Welfare Committee) that for us or for a congressional committee simply to retell the story of the need for an effective FEPC and nothing more may raise "false hopes." Quoting an earlier statement on behalf of the UAW-CIO made in a similar hearing April 21, 1952, President Reuther said:

"To discuss the need for FEPC in a legislative vacuum would be to engage in transparent political paperhanging in an election year. It would not fool any considerable number of the more than 20 million American workers and their families who suffer the daily injustice of discrimination in employment. They know that the reason why they continue to suffer such discrimination is not because this committee has not acted on this FEPC legislation until now. They know it is because majority rule, necessary to get to a Senate rollcall vote on FEPC itself, is strangled by Senate rule 22.

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[1] "I am not suggesting that the filibuster is the regular order of the day on this floor. It does not have to be. However infrequently the hammer on the filibuster gun is drawn back and cocked, this veto power of the minority over the will of the majority is, as all of us well know, a factor never overlooked in legislative drafting, appropriations, strategy, and tactics in the Senate of the United States. It affects and conditions every piece of legislation from the time it is a twinkle in the eye of its parent through every stage of gestation and birth."—Senator Clinton P. Anderson (Democrat, New Mexico), 100 Congressional Record, pt. 1, January 18, 1954, p. 349.

[2] See brief presented to Senate Committee on Rules and Administration, hearings, October 2, 3, 9, and 23, 1951, pp. 125–147.

"And the realization is growing that, by making a Senate vote on FEPC and other vital legislation less likely than in the past, rule 22 has converted a chronic legislative malady into an acute constitutional crisis that is a threat to the Nation's welfare and security."

Reviewing 7 years of effort frustrated by the veto power of the filibuster imposed upon the majority, President Reuther said that two comments seemed fair and justified.

The first: "Hope deferred maketh the heart sick."

The second, as true now as when it was made more than a year ago, is:

"Members of minority groups and millions of other Americans who want FEPC, who have worked and ought and voted for it for 7 years, are sick, tired, and disgusted with the endless repetition of a solemn political Virginia reel wherein speeches are made, planks are inserted in platforms or are left out of the platforms, and pencilled into campaign speeches, bills are introduced and reintroduced, hearings are postponed and finally held with the expenditure of great time, effort, money, and the reassembly of well known facts about justice on the job front, and at the end all action is boxed in the dead end of filibuster alley while hope of FEPC is strangled by the antidemocratic action of a filibustering minority.

"Yet, despite this feeling of heartsickness and exasperation, we join with others who are in earnest about FEPC in coming here and again laying out for your committee, for the record and for those in press and radio who care and dare, and for the American people, the tragic human facts, the economic loss, the forfeiture of moral leadership among the people of the world that daily flow from continued discrimination in employment."

1. THE SETTING IN WHICH THE 1955 HEARINGS ON CIVIL-RIGHTS BILLS ARE HELD

Congress has not adopted a single civil-rights measure in the past 80 years.

We have had progress not because of, but in spite of, a Congress pinned down like Gulliver under myriad strands woven by those who fear majority rule. We have had progress by executive action, by State and local legislation, by the courts, but not by the Congress.

House attempts to get an effective FEPC law

The House Labor Committee favorably reported out a bill authorizing a permanent FEPC. The Rules Committee refused it a rule. This action was used as a basis for the Appropriations Committee's refusal to ask for funds for the wartime agency on grounds that the Rules unit would refuse a waiver rule on the entire war agencies funds bill, of which the FEPC item was to have been a part. The upshot was that the House could not get a clear vote on either the FEPC authorization bill or the FEPC funds item.

In 1945, the wartime FEPC established by President Franklin D. Roosevelt was put under a death sentence by a rider attached to an appropriation bill after a series of parliamentary maneuvers including Senate filibustering and the refusal of the House Rules Committee to grant a rule permitting the House to consider, debate, and vote upon either an appropriation or a permanent authorization for the agency on its own merits.

In 1949, the House Education and Labor Committee held hearings on FEPC and favorably reported a bill for floor action.

In 1950, under the 21-day rule permitting committee chairmen to bypass the bipartisan coalition in the House Rules Committee and bring a bill directly to the House floor 21 days after it had been reported to the Rules Committee, an FEPC bill was put on the House floor for debate and vote. On this occasion, southern Democrats joined with Republicans in voting to substitute the Republican McConnell FEPC bill which lacked the power of enforcement through the courts for the Powell bill providing for such enforcement.

Even this weak substitute bill, containing subpena power to obtain books, records, and testimony, but lacking any means for obtaining compliance with recommendations, died in limbo, killed by the veto of the filibuster threat in the Senate.

Frustration in the Senate—Veto by a filibustering minority

In 1946, a Senate filibuster against a motion to close debate on the Chavez FEPC bill blocked a vote on the issue.

In 1947, during the Republican-controlled 80th Congress, the Ives bill, virtually identical with the Chavez bill and having Senator Chavez and other Democrats as cosponsors along with Republicans, was the subject of extensive hearings.

It was favorably reported and hung on the calendar where it died after Senator Russell, challenging a cloture petition filed August 2, 1948, to break a filibuster against taking up an anti-poll tax bill, had been sustained by the Republican president pro tempore of the Senate. Though favoring FEPC and effective cloture, Senator Vandenberg said he felt bound by precedent to hold that rule 22 did not permit limitation of debate upon a motion to take up a bill. He described this as "the fatal flaw" which robbed the rule of meaning.

On March 17, 1949, a few weeks before a bipartisan coalition defeated liberalizing amendments to the Taft-Hartley Act, a bipartisan coalition strengthened the veto power of the filibuster by voting 63 to 23 for a new rule 22 which, while applying cloture to any bill, resolution, measure, or motion, raised the requirements for limiting debate to 64 votes. It compounded the unconstitutionality of this rule by adding a provision (sec. 3) that even the new rule 22 could not be used to break a filibuster against a motion to take up a change in rules, thus attempting, in the words of the Senate majority leader, "to nail the Senate's feet to the floor for a thousand years."

In 1950, a bipartisan minority opposed to FEPC and other civil rights legislation twice defeated the will of the majority in attempts to take up the same FEPC bill, which had been reported out September 23, 1949. On May 19, the Senate voted 52 to 32 to break the filibuster and proceed to the consideration of the FEPC bill; on July 12, the vote was 55 to 33. Because these votes were 12 and 9 less than the 64 needed to override the veto of the filibusterers, the filibustering minority was able to veto the will of the majority; the bill was laid aside without further effort to wear out the filibusterers.

A congressional committee tells where the body of FEPC is buried

In April 1952, late in the second session of the 81st Congress, hearings were held on the Ives-Humphrey bill, virtually identical with earlier FEPC bills and with the bills now before this committee. On July 3, almost unnoticed in the rush to Chicago for the Republican and Democratic National Conventions, the Senate Labor and Public Welfare Committee—Senators Hill, Taft, and Nixon dissenting—reported out the bill with the recommendation that it pass, but, as had been suggested by us during the hearings, stating in polite parliamentary language just where the body of FEPC was buried, who had killed it and why:

"Unfortunately, it lies within the power of a few to prevent real consideration of this matter in the Senate. We urge free and complete debate, but we deplore the provisions of rule 22 which permit enfeeblement of this great deliberative body."

The 1952 Republican pledges on civil rights

The 1952 Republican platform was silent on the question of the veto power of the filibuster, it passed the buck to the States on FEPC, a position spelled out during the campaign by the Republican Presidential nominee, as noted below. The platform said:

"We will prove our good faith by * * * enacting Federal legislation to further just and equitable treatment in the area of discriminatory employment practices. Federal action should not duplicate State effort to end such practices; should not set up another huge bureaucracy."

The 1952 Democratic platform pledged Federal action for FEPC and other civil-rights legislation and faced up to the parliamentary reality of veto by filibuster in pledging the establishment of majority rule in the Congress:

"We favor Federal legislation effectively to secure these rights to everyone: (1) The right to equal opportunity for employment; (2) the right to security of persons. * * *

"In order that the will of the American people may be expressed upon all legislative proposals, we urge that action be taken at the beginning of the 83d Congress to improve congressional procedures so that majority rule prevails and decisions can be made after reasonable debate without being blocked by a minority in either House."

As 1952 presidential candidate, General Eisenhower said:

"State by state, without the impossible handicap of Federal compulsion, we can and must provide equal job opportunities for our citizens, regardless of their color, their creed, or their national origin. Here is one sound approach. If I am elected to the office for which I am now a candidate, I will confer with the governors of the 48 States. I will urge them to take the leadership in their States in guaranteeing the economic rights of all of our citizens. I will put at their disposal all of the information, all of the resources, and all of the know-

how. which a new administration can provide. I will myself be at their disposal, if they desire, to support the acceptance in the various States of a program which will enlist cooperation—not invite resistance." (Newark, N. J., October 17, 1952.)

"I am going to try to enlist the help of all of the governors to press in their States the fight on discrimination in employment. New York has set an example. We will not use civil rights for bait in election after election. We intend to deliver real progress for all and we will." (Bronx, N. Y., October 29, 1952.)

But on October 29, 1952, the same day that General Eisenhower spoke in the Bronx, Gov. James F. Byrnes of South Carolina, speaking with Governors Shivers of Texas and Kennon of Louisiana on that part of a nationwide radio-TV program that was beamed to Southern States, said:

"Let me speak of General Eisenhower. * * * He does not believe in compulsory legislation by Congress on the subject of fair-employment practices."

On November 1, the eve of the 1952 elections, General Eisenhower restated his pledge in items 1 and 8 of his final 10-point Program of Progress for the United States of America:

"1. I pledge that if elected, the President of the United States will serve all the people, irrespective of their race, their creed, their national origin, and irrespective of how they voted. * * *

"8. I pledge to devote myself toward making equality of opportunity a living reality for every American. There is no room left in America for second-class citizenship for anybody."

President Eisenhower acts in limited area of 1952 pledges

In 1953–54 as President, General Eisenhower did see to it that steps were taken to make good on pledges made in those limited but substantial areas of the civil-rights field which he interpreted as being within his Federal jurisdiction:

(1) Persuasion of the District of Columbia government to include anti-discrimination clauses in District contracts;

(2) Revitalization of the Federal Contract Compliance Committee to promote enforcement of the antidiscrimination clause (long practically a dead letter) in Federal contracts for defense and civilian goods and services;

(3) The order to wipe out segregated facilities for civilian personnel in Navy yards at Charleston, S. C., and Norfolk, Va., and elsewhere and the opening up of jobs heretofore closed to Negroes at these installations;

(4) The order to cease segregation in schools for children of military personnel at Fort Benning, Ga., and other military posts; and

(5) Opening up new Federal jobs to Negro appointees.

Also, the Eisenhower administration, through the Justice Department, gave continuity to the letter and spirit of the Truman administration's position in the Supreme Court actions—

(6) To wipe out bans against Negro patrons in District of Columbia restaurants; and

(7) To wipe out segregation in public schools.

None of these, however, touch the basic problem of equal opportunity in civilian employment other than on Government contracts.

In 1955, civil-rights legislation is dismissed as "extraneous"

In 1955, President Eisenhower attempted to dismiss as "extraneous" proposals to include anti-segregation provisions in pending legislation creating an Armed Forces Reserve, providing Federal aid for school construction and for low- and middle-income housing.

And in July 1955, as pointed out by the chairman of the House Judiciary Committee on the first day of these brief hearings,[3] President Eisenhower and policy-

[3] "The Attorney General was invited to appear and testify on Thursday, July 14, on these bills, but he declined. The Interstate Commerce Commission, the Department of Defense, the Department of Health, Education, and Welfare, and the Civil Service Commission, were all invited to appear on that date, and all declined. The Department of Labor, General Services Administration were invited to appear but no response has been forthcoming from them. The Housing and Home Finance Agency was invited and will appear.

"Any claim by these agencies that these 53 bills present an overwhelming and impossible task is pure deception. Most of these bills are identical copies. There are at the most 13 different bills, and, as far as substance is concerned, no more than 10 different proposals. Furthermore, most of these proposals were referred for these agencies' consideration last winter.

forming members of his administration with one exception, the Administrator of the Home Finance Administration, seemed to suggest that these hearings and these bills were in their judgment also "extraneous."

In passing, it should be noted that Housing and Home Finance Administrator Cole, who appeared before your committee only as Administrator Cole, not as a spokesman for the Eisenhower administration, cited the FHA ban on insured loans for restricted covenant property that was issued in 1949 under President Truman following the 1948 Supreme Court decision. Mr. Cole's specific program stopped with that. He expressed a banker's fear of part 6 of the omnibus Powell bill (H. R. 389) that would plug the present gaping loopholes in FHA regulations which—

1. permit 85 percent of federally sponsored public housing to be segregated;
2. allows slum-removal programs financed by Federal funds to clear minority groups out of their existing homes without making provision for any new housing for them; and
3. provide little or no FHA-insured housing for minority groups.

Part 6 would require, prior to Federal guaranty of a loan, that lender and mortgagor agree in writing that there will be no discrimination because of race, color, religion, or national origin in renting or selling the property.

Mr. Cole was more concerned about possible violations of such a requirement and agreement and the effect of violations on the mortgage market than he was with the need for making sure that United States taxpayers' cash and credit will be used for fair housing and fair housing only. Such an attitude seems to be a broad invitation to builders of lily-white and Jim Crow housing projects to continue to "come and get it"—providing no such discriminatory policy is put in writing and recorded. This is what we get out of reading Mr. Cole's quims and qualms. If our reading is unfair, we hope your committee will give Mr. Cole opportunity to correct or clarify his testimony.

The contempt for these bills, for this committee, and, more important, for widespread conditions of economic, social, and political discrimination, injustice, individual heartbreak, and mass tragedy that was expressed by the Eisenhower administration's refusal either to appear or to present statements to your committee will not pass unnoticed by the American people now or in 1956. We urge your committee to take due note in your report and findings.

II. THE BIG RUN-AROUND ON STATE-BY-STATE ACTION

Over the years, while liberal Democrats and Republicans have endeavored to get Federal action on FEPC and other civil-rights legislation, supporters of FEPC have been told to go to the State legislatures and city councils for the action denied them by a Congress in the grip of a determined minority opposed to civil rights and occupying positions of great power and influence, making the most of its balance of power in Congress while relying on northern Democrats to furnish the margin necessary for victory in election years.

Those who have worked toward the goal of an effective permanent FEPC have made the circle trip from Washington to State capitals and city halls and back again to Washington in the past 8 years.

In 1947 the four States of New York, New Jersey, Connecticut, and Massachusetts had FEPC laws.

By 1954 five other States (Colorado, New Mexico, Oregon, Rhode Island, and Washington) had enacted laws of some effectiveness. Two States, Wisconsin and Indiana, had laws of some effectiveness. Two States, Wisconsin and Indiana, had laws lacking provisions for enforcement.

"These are the agencies primarily concerned with civil rights. The Justice Department, for example, has said that it could take no action because existing laws were too weak. Yet when offered the opportunity to testify on these bills, it declines. How can existing laws which are weak be made stronger without benefit of the testimony of the Justice Department?

"President Eisenhower has stated that civil-rights issues should be considered on their merits. If the executive branch ducks responsibility to testify, how can Congress adequately supply the needs of the National?

"Apparently the administration wants to have its cake and eat it too. The agencies decline to express themselves. Why? Apparently the administration does not want to alienate voters in certain sections of the country, the South, for example, who supported Eisenhower.

"The administration gives the impression that it supports these bills with pontifical declarations. It does not implement these declarations by deeds and actions. The administration dares not oppose these bills. It is afraid to come down to the Judiciary Committee and approve them. Such a pusillanimous attitude is most unworthy" (testimony of the Hon Emanuel Celler (Democrat, New York) before the House Judiciary Subcommittee No. 2, on civil-rights bills, July 13, 1955).

What the 1955 State legislatures did and did not do

In 1955 FEPC laws were enacted by the Legislatures of Michigan and Minnesota.

In Michigan, a Republican legislature had turned down Gov. G. Mennen Williams' request for a State FEPC law made year after year since he was first elected in 1948. In the 1954 elections, despite grossly unjust apportionment of the legislative districts within the State, the liberal Democratic vote increased so markedly (23 Republicans, 11 Democrats in the Senate; 59 Republicans, 51 Democrats in the House as compared with 22 to 8 and to 66 to 34 in 1953) that 29 Republicans in the House and 10 in the Senate joined 51 Democrats in the House and 10 in the Senate in supporting and passing FEPC. The new law will become effective October 14, 1955.

In Minnesota the bill was recommended by the newly elected Democratic Governor and passed by a Democratic legislature.

In the States of Ohio, Illinois, and California, FEPC bills were killed in Republican-controlled State senates.

In Indiana, a bill adding enforcement to the toothless FEPC law was killed in a Republican-controlled legislature.

In Pennsylvania, an FEPC bill was passed by the House but is hanging fire in the Republican-controlled senate.

So far as the public record shows, after 2½ years in the White House President Eisenhower has yet to utter one syllable in fulfillment of his 1952 campaign pledge, made in his speech at Newark, N. J., October 17:

"If I am elected to the office for which I am now a candidate, I will confer with the Governors of the 48 States. I will urge them to take the leadership in their States and guarantee the economic rights of all our citizens."

Thirty-six cities have adopted FEPC laws

By 1955 the number of cities having local FEPC's had increased to 36. The list now includes Minneapolis, Duluth, Milwaukee, Chicago, East Chicago, Gary, Cleveland, Lorain, Youngstown, Toledo, Pittsburgh, Philadelphia, and Sharon, Pa., River Rouge, Pontiac, and Hamtramck, Mich.

Five other cities have ordinances applying only to city employment and contracts.

Two cities (Phoenix, Ariz., and Akron, Ohio) omit enforcement provisions.

But worst areas are left untouched

Obviously, these State laws and municipal ordinances leave the worst areas of discrimination and exploitation untouched.

And during the past year anti-civil-rights leaders have used the United States Supreme Court decisions decreeing the end of segregation in public schools to launch extralegal, if not illegal, economic sanctions against Negroes in Mississippi and other parts of the South, extending such reprisals and systematic attempts at intimidation to others who stand with Negroes in support of the Supreme Court decisions and decrees.

Throughout the South, President Eisenhower's 1952 campaign recommendations that the States assure fairness in employment have been treated as so much good clean political eyewash. Progress has been made and continues to be made in some areas of civil rights, such as admission to colleges, universities, professional school and societies. But patterns of discrimination, Jim Crow segregation, job and wage differentials, and outright closure of jobs to Negroes persist.

As we will show below out of our own efforts and experience,[4] unions have succeeded in cracking widespread injustice on the job in many individual plants and industries. Most success has been in unskilled and production jobs; the least progress has been made in highly skilled white-collar and professional jobs.

All who believe we must have fair employment in the United States, if we are to continue to lead the forces of freedom in the world, have been given a repeated runaround on a double-track railroad.

We have gone from our home communities to Washington, back to our own State capitals and city halls and back again to Washington. This is where the remedy must be found.

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[4] See sec. X, The UAW–CIO's Fight To Establish Justice on the Job Front.

III. THE CIVIL RIGHTS RECORD OF THE 83D CONGRESS

Veto by filibuster was effective in the 83d Congress organized by the Republicans, just as it had been effective in the nominally Democratic 79th Congress, the nominally Republican 80th Congress, the nominally Democratic 81st and 82d Congresses. Only determined action by liberals in the 2d session can override this veto in the 84th Congress.

Because it is part of the setting in which these hearings are being held and affects future action or lack of action on bills here being considered, a brief recapitulation of the 83d Congress' action on FEPC is set down at this point:

Hearings on the Ives bill (S. 692) were first scheduled for May 1953.

At President Eisenhower's request, Senator Ives went to the Geneva meeting of the International Labor Office which was under vicious and unjustified attack by another United States delegate and, by agreement with Labor Committee Chairman H. Alexander Smith, a nominal cosponsor of S. 692, hearings on S. 692 were postponed to January 12, 1954.

On January 7, 1954, over the protest of Senator Ives, who had devoted months to developing plans for these hearings and who had issued the invitations to witnesses scheduled to testify, Senator Smith wired the witnesses postponing the hearings to February 23. He gave no reason, other than "it is necessary."

Why was it necessary?

The reason would seem to be that in President Eisenhower's many 1954 messages to the Congress he had found no space to recommend action on civil-rights legislation—not even the toothless "study" bill, S. 1, introduced by Senator Dirksen January 7, 1953, during the heat of the debate over Senator Anderson's proposal to adopt Senate rules, including a new rule 22.

On January 18, 1954, Senator Anderson urged Majority Leader Knowland to make it easier to break filibusters by taking up Senator Jenner's Senate Resolution 20 changing rule 22, also introduced at the time of the January 3, 5, and 6 debate on the rules, reported to the calendar May 12 and passed over 3 times.

Senator Knowland made it plaint that he did not intend to bring on a filibuster by trying to take up Senator Jenner's proposal for slightly weakening the veto power of the filibuster by reducing the majority needed to limit debate from 64 to two-thirds of those voting (p. 332, Congressional Record, Jan. 18, 1954).

And Senator Lehman, speaking in support of Senator Anderson's suggestion to Senator Knowland, promised that he would take part in a new attempt to change rule 22 when the 84th Congress convened in January 1955.

On January 26, 27, 1954, with a minimum of notice, Senator Hendrickson held hearings on Senator Dirksen's bill (S. 1) and S. 535, which was 1 of the 10 civil-rights bills introduced a year earlier by Senator Humphrey and intended to implement the recommendations made 6 years before by President Truman's Committee on Civil Rights. Either of these two bills would have created an investigating Commission on Civil Rights to study, report, and recommend, but with no power to enforce through the courts, as was proposed in S. 692.

Senator Humphrey expressed belief that this small beginning was possible in the 83d Congress; Senator Dirksen referred to "a fond hope" that the long journey toward fair employment and other civil rights might "begin with the first step."

S. 1 was never heard from again. It died in committee.

The FEPC bill, S. 692, received hearings in February and March 1954, was reported out of committee April 28, 1954, but died on the calendar.

IV. HAS THE 84TH CONGRESS NAILED ITS FEET TO THE FLOOR ON CIVIL RIGHTS?

In the name of "party unity," liberal Democrats did not raise the question of adopting new rules, including a new rule 22, on the opening day of the 84th Congress. Senator Herbert H. Lehman (Democrat-Liberal, of New York) made a statement the following day, January 6, 1955, renewing his pledge to continue the fight for majority rule.

On February 1, 1955, Senator Humphrey (Democrat of Minnesota) and other Senators introduced a bundle of 8 bills with the hope and prayer, expressed by Humphrey, that 1 or 2 might be passed.

But with the acceptance of rule 22 for this session, it seemed likely that any Senate action on such bills would be by arrangement with the anti-civil-rights southern wing of the Democratic Party. This appears to amount to a veto (by threat of a filibuster) leveled in advance against FEPC that is difficult but not impossible to override.

v. THE NEED FOR FEPC CONTINUES; AUTOMATION MAKES IT MORE ACUTE

While stock market prices continue to reach new highs and we are told that employment, wages, and total national production are "at or above the 1953 peak," little or no attention is directed to areas of depression, unemployment and underemployment, distress, malnutrition, large increases in consumer debts, increased business failures, falling farm income. We are told that the New Deal measures of social security, unemployment compensation, Federal deposit insurance, farm price supports, either firm or flexible, are protection against the onset of serious recession and depression.

We are told that the gross national product is running at the rate of $380 billion a year. But top secret classification seems to be put on the fact that we should have a substantially greater total national product in order to maintain a healthy full employment economy at a high and rising standard of living adequate to distribute, buy and consume fair shares of abundant and increasing production of food and manufactured goods and services among a growing population.

Along the neon-lighted political midway in which barkers cry up prosperity as they sell overpriced cars, houses, and other products while they cry poverty when income and corporation taxes are mentioned, no time is spent on such facts as these:

Unemployment is acute in the Pennsylvania coalfields. (More than 1 million persons "qualified" to receive so-called surplus foods.)

Unemployment is substantial and chronic in Arkansas. (More than 109,000 persons in 58 counties "qualified" in May 1955 to receive so-called surplus foods.)

Even in such industrial centers and States such as Michigan, where the automobile industry is breaking records for car and truck production, substantial unemployment persists.

Negroes and members of other minorities against whom discrimination in employment is practiced are the last to benefit in an upturn in business activity and employment. And, typically though not universally, because they are the last hired, they are the first to be given short time, laid off or fired outright in a downturn. They are hit first and hardest when unemployment strikes a plant, a community, an area, an industry, or the Nation as a whole.

Today, with unemployment reported by the Census Bureau at 2,679,000 for the week of June 5–12, the unemployment rate among nonwhite workers is about twice as high as the unemployment rate among white workers.

Of the total, 2,177,000 were white and 502,000 were nonwhite. Expressed as percentages of the nonmilitary labor force, the white jobless rate of 3.7 and the nonwhite, 7.0.

(These figures are based on a civilian labor force of 59,510,000 white and 7,185,000 nonwhite. The labor force participation rate—percentage of the total noninstitutional civilian population in the labor force—is 57.8 percent for whites and 63.1 percent for nonwhites. Male participation rates for whites and nonwhites are about the same, but the nonwhite female participation rate is substantially higher than the white female rate, the Census Bureau reports.)

While industry and business are reported competing for young workers, particularly college graduates, young Negro men and women suffer a double handicap:

(1) Because their families often lack money to continue their children's education to the limit of each one's potential ability, a smaller proportion of Negro youth finish high school and university courses;

(2) When they do finish and become job seekers, they too often must wait longer for less and sometimes for nothing at all, measured by their education, training, and ability.

With the accelerating automation of our factories and offices, this discrimination against the young men and women of Negro and other minority groups threatens to become more acute.

If automation is a matter of needing fewer and fewer workers to turn out larger and larger volume of products, then in the absence of FEPC discrimination will push them farther and farther back in the line at the hiring gate.

If, as business spokesmen contend, automation is going to require more and more highly educated and trained workers, then the discrimination now existing more urgently cries out for both an effective Federal FEPC and Federal aid to education, including both assistance in school construction and scholarships made available without discrimination.

VI. MUCH GROUND HAS BEEN LOST SINCE THE DEATH OF THE WARTIME FEDERAL FEPC

That progress toward greater equity of income for nonwhite families has been made over the years cannot and should not be denied.

In 1939, according to United States Census Bureau data, the median income among nonwhite families and individuals whose major source of income was wages was approximately 38 percent of the income of white families and individuals.

By 1950 the median income for nonwhites had risen to 55 percent of the median among whites.

TABLE I.—*Median incomes, white and nonwhite families and individuals without nonwage income, for the United States—1939 and 1950*

	1939	1950
White families and individuals	$1,409	$3,647
Nonwhite families and individuals	$531	$2,021
Ratio in percent	38	55

Source: U. S. Department of Commerce, Census Bureau, Current Population Reports-Consumer Income, Series P-60, No. 9, table 14.

Income gains and losses since 1939

Credit for this significant improvement must be given to many forces and groups:

The shift from a depression economy to full employment.

The movement by Negroes to the large northern cities where wage rates are higher and where Negroes find greater opportunity in higher paid industrial, clerical, and professional occupations.

The work that has been done in both the North and the South by unions such as the UAW–CIO, fighting for equal job opportunities for all.

And then there is the wartime Federal FEPC, and the work done by some of the States since World War II.

This increase from 38 percent to 55 percent in an 11-year period shows, however, not only how far we have come; it shows also how much further we still have to go before economic parity is achieved.

Any feeling of complacency about the situation is reduced by examining what has happened since the end of World War II and the elimination of FEPC.

There is strong reason to believe that since 1945 we have actually lost a great deal of ground in the fight for true economic democracy.

Completely comparable figures cannot always be put together from the available data. However, the United States Census Bureau does supply data that show what has happened to the ratio of incomes among white and nonwhite families, those most likely to be affected by FEPC and similar measures.

In 1945, when war and FEPC activity were at their height, the ratio of nonwhite to white family incomes also reached an alltime high. That year median income among white urban families was approximately $3,085. Among their nonwhite neighbors, the median income was $2,052. For every dollar of income received by a white family, the Negro or other nonwhite family received about 66½ cents.

By 1950, median income among white families had risen to $3,813. The median among nonwhites had risen much less—to $2,312. Instead of the approximately 67 percent of the median income among white families, the nonwhites now received less than 61 percent. Negro families fell behind in the race with prices.

We want to draw attention again, as we did in October 1951, in April 1952, and again in 1954, to the fact that the nonwhite families fell behind in the march toward economic justice; they also fell behind tragically in the race with prices. From 1945 to 1950, while median incomes rose 13 percent for nonwhite families, the consumers price index shot up 34 percent.

TABLE II.—*Median incomes—Urban white and nonwhite families, 1945–50*

Year	Median income		Ratio
	White families	Nonwhite families	
			Percent
1945	$3,085	$2,052	67
1946	3,246	1,929	59
1947	3,465	1,963	57
1948	3,694	2,172	59
1949	3,619	2,084	58
1950	3,813	2,312	61

Source: U. S. Department of Commerce, Bureau of the Census; Current Population Reports—Consumer Income, annual releases for the years shown.

Situation better in northern cities but disparity of income exists everywhere

In fairness, it must be pointed out that the situation was probably significantly better in the northern cities than in the southern cities. Census data for 1949 show that the ratio of nonwhite to white incomes among urban families in the United States as a whole was approximately 58 percent. In not one of the major southern cities for which the Census Bureau supplied comparable data was this ratio achieved. As shown in the accompanying table, the ratios (exclusive of the metropolitan areas listed) range from a low of 48 percent in Memphis to a high of 55 percent in Washington, D. C.

TABLE III.—*Median family income in 1949* [1] *and cost of the city worker's family budget* [2]

City	All families	White families only	Nonwhite families only		Cost of city worker's family budget (4 persons)
			Amount	Percent of white family income	
Atlanta, Ga.:					
City	$2,495	$3,412	$1,707	50	$3,613
Metropolitan area	2,959	3,649	1,681	46	
Birmingham, Ala.:					
City					3,451
Metropolitan area	2,839	3,494	1,849	52	
Memphis, Tenn.:					
City	2,791	3,537	1,686	48	3,585
Metropolitan area	2,777	3,495	1,617	46	
Nashville, Tenn.:					
City					
Metropolitan area	2,875	3,243	1,650	51	
New Orleans, La.:					
City	2,754	3,352	1,774	53	3,295
Metropolitan area	2,756	3,341	1,695	51	
Norfolk, Va.:					
City					3,295
Metropolitan area	3,083	3,439	1,536	45	
Richmond, Va.:					
City					3,663
Metropolitan area	3,396	4,025	1,825	45	
Washington, D. C.:					
City	3,780	4,608	2,540	55	3,773
Metropolitan area	4,130	4,641	2,506	54	
United States: [3] Urban families	3,486	3,619	2,084	58	3,555

[1] U. S. Department of Commerce, Bureau of the Census, 1950 Census of Population-Preliminary Report (Series PC-5, issued in 1951).

[2] U. S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, February 1951 p. 152. Data shown are for October 1949.

[3] U. S. Department of Commerce, Bureau of the Census, Current Population Reports—Consumer Income, Feb 18, 1951, tables 1, 2, and 7. Note. In 1949, 54.5 percent of urban families were single-earner families.

NOTE.—The median income of families having 1 earner and 2 children under 18—the kind of family for which the city worker's family budget is set up—would probably run slightly above the median income shown in this table.

Additional poignancy is given to these income figures for white and nonwhite families alike when they are compared with the cost of living—as measured by the Department of Labor budget for a city worker's family of four people—in these same cities and areas.

It can be seen from the above table that, while the median incomes among white families do come up to the cost of the budget in some cities, in others not even the relatively better paid white families can enjoy even the standard of living described in that budget.

The level of living imposed on the average nonwhite family whose income is less than half the income of white neighbors has too often been commented on to need additional stress here.

VII. THE RECORD OF POSTWAR JOB DISCRIMINATION IN ONE STATE

Since prewar patterns of discrimination in employment were allowed to assert themselves again when World War II ended, it is no accident that State employment service agencies report exactly the same situation that the Federal FEPC discovered when it began its activities in 1941.

Because it is relevant and important evidence, we quote from a statement made by the executive director of the Michigan Unemployment Compensation Commission, Harry C. Markle, before the State Affairs Committee of the Michigan State Legislature on April 18, 1951. Mr. Markle was reporting on the experiences of the Michigan State Employment Service, which is part of his agency, in the placement of minority-group workers in the Detroit labor-market area. We have checked and find that his description is an accurate picture of present patterns. We are sure a similar story would have to be told no matter what State or local area was being discussed, unless that area is under an effective antidiscrimination law. Although Michigan now has a State FEPC law and progress in reducing discrimination can be expected, many other industrial States do not and, in the South, are not likely to enact effective State FEPC laws for many years.

Mr. Markle pointed out that, as wartime antidiscrimination policies came to an end, discrimination specifications in requests for workers coming to the State employment service began to mount:

"By June 1948 about 65 percent of all job openings in the Detroit labor market had written discriminatory specifications, and others with no written specifications most frequently presented rejection at the gates."

In 1948 the agency had almost 23,000 unfilled requests for workers that excluded workers of certain racial, religious, and nationality groups.

Letters tell human cost of exclusion from job opportunities

The human cost of such discrimination was told in letters received by the commission, and letters received by Gov. G. Mennen Williams, and referred by him to the commission for action.

Here is an excerpt from a letter referred to the employment service during the height of World War II, September 1943:

"I am married and have a child. My husband left for the Army Saturday and I have no one to care for the baby or myself. I haven't anyplace to live * * *.

"I tried to get a job in defense plants because I thought after my husband was in the Army I would get consideration but they are hiring just white women in these factories.

"If my husband was here then I wouldn't worry about work. So if it were possible for him to come home and take care of his family then we could live happy, but with him away and a Negro can't get a job because of color, I and the baby can't go on * * *."

This is from a letter written after World War II was over:

"I've noticed the various papers are filled with male-help-wanted, like during the war. Well I happend to be in the Army at that time, since January 1942 until February 1948 so I was out on that deal, not only myself but many others.

"I've been in those lines in which over 1,000 people were employed. It was always the white fellow behind me that got the job. I've been in over 15 different lines, and it's always the same thing."

This letter was dated March 12, 1951:

"Governor WILLIAMS: I want you to know I am a colored man and I went to World War (No. 2) and I have to walk and walk trying to get a job and they will not hire me.

"They will hire a white man and will not hire a colored man. They send all to war together but it is a difference when they get back to U. S. A."

Unemployment rate shows present discrimination

Additional evidence of the tragic toll taken by discrimination is the fact that, proportionately, unemployment among the nonwhite workers is greater in Detroit than among their white fellow workers. This is also true nationally. Among those who have prepared themselves for white-collar jobs, the shortage of opportunity is more drastic than among unskilled workers.

At the time of Mr. Markle's statement, only one white-collar job in his file was open to a nonwhite worker. Mr. Markle comments: "as we proceed down the rungs of job opportunities from the skilled through to the unskilled there is some appreciable improvement in the proportion of positions open to nonwhite workers. Unfortunately there is also an increase in their proportion of the supply. While nonwhites represented 30 percent of the skilled applicants and 45 percent of the semiskilled, they numbered 63 percent of the unskilled."

The Michigan Employment Security Commission's December 30, 1953, report said: "Nonwhites today represent 50 percent of the labor force in the central Detroit area. The findings of the samples over the past 3 months which was in a declining job market show a high ratio of discriminatory specifications on job orders.

"In sampling of 197 job orders in nonmanufacturing establishments from this area, 73.6 percent carried discriminatory specifications in favor of white workers, 6.6 percent in favor of nonwhites, and 6.6 percent were optional.

"In a sample of 417 job orders in manufacturing establishments, 82.7 percent carried specifications for white workers, 8.2 percent for nonwhites, and 5.8 percent were open by statement.

"In clerical, sales, professional, in a sample of 115 orders, 82.6 asked for white workers, 1.7 for nonwhites, and 1.7 was open by statement. The balance of the orders in each instance carried no specifications.

"Service orders, domestic and personal, showed a high degree of participation by nonwhites. Relaxations are easier to obtain also.

"The percentage ratio of placements of nonwhites is considerably greater than the orders would indicate, since most placements of nonwhites are made on orders carrying limiting race designations."

VIII. THE REAL FEPC ISSUE AS STATED BY A CONSERVATIVE ORGAN

The opponents of FEPC talk in terms of moral issues, of principles, of everything except the main issue—that they fear the economic and political effects of economic betterment of the Negro. This is no secret. In the conservative David Lawrence's U. S. News & World Report of February 11, 1949, we find the following remarkable exposition of the real issue:

"And, in the backs of their minds, some of the southerners see the old division between the Negro and the white worker wiped out in the South. An undivided southern working force would be easier to unionize. And an organized working force in the South could spell the same disaster for southern conservatives that organized labor has worked out for conservatives in the North.

"The South's political system is staked upon the battles of the present Congress, and of these the fight against a ban on filibusters is the key engagement. If the rules are changed to ban filibusters, southerners have little hope of winning their fight. Restrictions that hold down the vote are important to the South's one-party system. And southerners fear the Negro vote and unionization.

"Negroes are insisting on more pay, a larger part in all kinds of work, and shorter hours. Negro women are demanding more pay and less work, or in view of the better pay of their husbands, they are not working. This is deeply resented by the white South, long conditioned to Negro help for little pay.

"In this situation, old-line Southern politicians are fighting with their backs to the wall. If white and Negro workers in the South manage to work together and get to the polls, they can send a new kind of southerner to Washington. He would speak for the poorest people in the Nation and might make the New York and Chicago New Dealers look like pikers. The southerners want to use the filibuster to halt this trend."

IX. THE PROBLEM IS NATIONAL—THE SOLUTION SHOULD BE NATIONAL

As will be shown by UAW-CIO experience, as set forth in section IX, organized labor has done much to insure minority groups fair treatment on the job, but labor's ability to solve the problem is limited. The basic trouble arises at the

hiring gate. We shall continue to fight for the inclusion of fair hiring practice clauses in our contracts with employers. But the best we can do will not meet the national need.

Just as unions interested in fair play for minorities can have effect only within limited areas, the State laws—of which the New York law is a model—can have only a limited effect.

The process of getting individual States to pass antidiscrimination laws is just too slow.

Where discrimination is worst, where justice on the job is most needed, there is no prospect of remedy by State or local legislation.

Why should Negro families continue to eat less and wear less and sleep in worse housing and die 8 years earlier than white workers[5] for the next 10 or 15 or 20 or 50 years while we try to do in 48 separate places what needs to be done at one place and time?

The problem is a national one—the solution should be a national one.

X. THE UAW–CIO'S FIGHT TO ESTABLISH JUSTICE ON THE JOB FRONT

We believe that we make progress with the community. But, when leadership is required, as in the matter of fair employment, and when the Federal Government and, in many instances, State and local governments have not been prepared to move, we have moved and, we believe, have helped the community to make progress. This is in line with a basic tenet of the UAW–CIO and the CIO that democracy must be more than a symbol; it must be a living reality in the daily lives of working men and women everywhere, at the hiring gate, on the job, in the union, in the community, the State, the Nation, and the world.

In 1946, at our 10th constitutional convention, 1 year before President Walter P. Reuther first appeared before a congressional committee in support of effective FEPC legislation, the UAW–CIO established what we believe is a unique program of human engineering in the field of antidiscrimination and civil rights. It was intended and designed to deal with the day-to-day problems which arise in the shop, the local union, and in the community and affect our members, now numbering 1,500,000 men and women.

Convention action had provided for the establishment of our fair practices and antidiscrimination department. The convention adopted a new provision, article 25 of our constitution, which specifically sets aside "1 cent per month per dues-paying member of the per capita" for the purpose of conducting the activities assigned to this department under our union's antidiscrimination programs and policies. By June 1947, this program was well underway.

Since 1947, our antidiscrimination program has grown in proportion with the rapid growth of the UAW–CIO membership It has been given high priority on the agenda of unfinished business in our union shops and the community. We believe that unprecedented accomplishments have been made in this area. With a Federal fair employment practices law, progress would have been faster and greater. Such a law is still needed to complete the job.

Industry hiring practices make job difficult

When we began our program, we were keenly aware of the fact that Negro men and women throughout our industry were generally assigned by management to the lowest paying and most menial job occupations in the factories.

We realized that most of these unfair hiring practices and traditional hiring patterns of management had been established in a period when there was no Executive order on FEPC and when there were no State FEPC laws. We know the many difficult problems which we would face not only with the managements of the various plants and corporations, but among the membership and the communities as well because the project which we had undertaken would involve many changes and innovations.

In the last 7 years, while the Federal Government had done nothing but talk about guaranteeing justice on the job front to every American citizen, we have moved further than most sections of industry. If today you would take a tour through the plants under UAW–CIO contracts in the auto industry, the farm implement industry, the aircraft industry, North and South, East and West, you would find that, as the result of the union's vigorous fight to eliminate discrimi-

[5] P. 18, Employment and Economic Status of Negroes in the United States, staff report to the Subcommittee on Labor and Labor-Management Relations of the Senate Committee on Labor and Public Welfare, 1952.

nation of any sort against any minority, those workers who were formerly relegated to the lowest, dirtiest, and most undesirable job occupations primarily because of their color are today enjoying a fuller measure of equality of opportunity in UAW–CIO shops. They are employed in classifications which they heretofore could not obtain. These accomplishments have been won through negotiations. through the strengthening and broadening of the seniority provisions in the contracts with the shops whose workers we represent. This progress represents only a part of the total job which must be done to insure complete justice on the job. An effective Federal FEPC law will expedite completion of this job.

Union acts to protect members against bias within own ranks

While we moved to break down age-old prejudices and discriminations in the work patterns of shops set by the hiring and management policies of industry, we also moved to deal with practices of discrimination in the local union hall and such discrimination as arises from time to time among members with various racial and national origins within local unions. We have established machinery to deal with alleged acts of discrimination against a local union member by another member of the local union and/or a local union officer based on an individual's race, color, religion, sex, or national origin.

So that you may have a clear understanding of the program and the machinery for carrying it into effect, we are transmitting with this testimony copies of the UAW–CIO Handbook for Local Union Fair Practices Committees. If you will look at pages 10–22, you will find specific precedures for implementing guaranties against discrimination in the shop and in the affairs of local unions.

Under this program a worker in the shop who makes a charge of discrimination against another member of the union or a local union officer can file a complaint; the complaint can be processed through the local union's fair practices committee to the local union membership, to the international executive board, and, as a final resort, to the international union's convention.

We have also provided machinery to deal with recalcitrant local unions who refuse to observe the antidiscrimination program and policies as set forth by convention action and as implemented by the international executive board and the union's fair practices and antidiscrimination department.

Fair practices committees work for democracy in shop, local union, and community

The UAW–CIO has committees to carry on the day-to-day program against discrimination. We have organized in our union presently some 600 local union fair practices committees comprised of from 7 to 12 members, a total of approximately 5,400 persons throughout the United States and Canada. Their sole task is to work in the local union, the shop, and communities on problems of discrimination. These committees have been an effective force in the shop in utilizing the grievance machinery. Illustrations of their work are given in our handbook. These committees have participated in many community projects to end discrimination in many forms.

One example which we should like to cite involves the practices of the American Bowling Congress, who categorically refused to permit a Negro, an Indian, and/or members of other minority groups to participate in organized bowling, commonly referred to as "sanctioned" bowling. This discrimination prohibited members of our local unions from enjoying together hours of relaxation and recreation in this great American sport. We took the lead in fighting this discrimination.

One of the sponsors of Federal civil-rights legislation, Senator Hubert H. Humphrey, was cochairman of the National Committee for Fair Play in Bowling which, commencing in 1946, conducted a vigorous 4-year campaign to abolish the color line in bowling. In this campaign we had the cooperation of UAW–CIO local union fair practices committees throughout the country as well as a host of civic, church, fraternal, and recreational groups.

Lawsuits were filed by the CIO against the American Bowling Congress to establish the fact that the exclusion of minority groups from the national pastime of bowling was morally wrong and legally indefensible. This campaign ended with a signal victory in 1950 when the American Bowling Congress, faced with legal action and an aroused public opinion, removed the exclusion clause from its constitution. Today hundreds of bowling lanes are open to all Americans without regard to race, color, religion, or national origin.

UAW–CIO practices what it preaches; sanctions invoked to obtain compliance

Sanctions can be and are invoked as a last resort against local unions who refuse to observe antidiscrimination policies.

The progress our union has made in fighting against intolerance and discrimination has been assisted by the sanctions which our union has set up to deal with situations in which one of our own family of local unions violates the union's antidiscrimination policy. We testify here for enactment of an effective Federal fair employment practices law, referring specifically to provisions in the law providing penalties for violation of its provisions. We would be hypocrites were we to come here to insist that the Government institute such sanctions while we ourselves fail to provide like penalties for those within our union who violate our policies with respect to fair practices.

We shall describe some instances in which we invoked the sanctions of the international union after the antidiscrimination policies of our union had been violated by UAW–CIO local unions.

In Dallas, Tex., at the Braniff Air Lines local, we had organized approximately 1,000 workers. We exerted every effort through mediation and conciliation in our attempts to have this local union observe the antidiscrimination policies of our international union and admit into its membership Negro workers of the Braniff Air Lines Co. This the local repeatedly refused to do. Consequently, the international union's executive board revoked the charter of this local union. We took this action because we believe that every person regardless of his race, color, religion, sex, or national origin should be accorded membership in our union. If any local persists in refusing any group full membership privileges, we do not want that local in the family of UAW–CIO local unions.

In promotions without discrimination action, not equivocation, yields results

In our efforts to make democracy work in local plants, we have sometimes encountered problems when we have attempted to see to it that Negro workers are upgraded in accordance with their merit, ability, and seniority. We have met resistance.

A recent case in point occurred in the International Harvester Co. plant at Memphis, Tenn., where workers in the welding department refused to work with a Negro who had been promoted to the welding occupation.

Immediately upon being advised of this unauthorized stoppage, the international executive board, on April 29, 1953, sent the following telegrams to John L McCaffrey, president of the International Harvester Corp., and to the officers and members of local 988 in the International Harvester plant at Memphis:

"Mr. JOHN L. MCCAFFREY,
"President, International Harvester Co.,
"Chicago, Ill.:

"The UAW–CIO international executive board in session here in Detroit has voted unanimously to instruct me to advise you that our union completely supports the principle that any worker entitled to promotion on the basis of seniority and ability to handle the job shall not be denied promotion because of race, creed, color, or national origin.

"I am instructed to advise you further that if any member of our union in any of your plants attempts to obstruct such promotion, you may feel free to take disciplinary action in the full knowledge that the union will not invoke the grievance machinery to defend a worker guilty of such obstruction.

"As you know, under the terms of the Taft-Hartley Act we are prevented as a union from disciplining our members in terms of their employment. The responsibility for discipline in such cases rests exclusively with management. You have our assurance that in the Memphis case, to which you refer in a wire, we shall not stand in the way of your meeting your responsibilities by appropriate disciplinary action.

"The UAW–CIO is firmly and uncompromisingly committed to the policy of nondiscrimination, and we are prepared to carry out both our contractual obligations and our moral commitments in the Memphis situation.

"Local 988 of the UAW–CIO at the Memphis International Harvester plant has been notified of this action by the UAW–CIO international executive board and all members of the UAW–CIO have been instructed to return to work and carry out the provisions of our contract and the policies and constitution of the UAW–CIO."

And the following telegram of the same date was sent:

"OFFICERS AND MEMBERS OF LOCAL 988, UAW–CIO,
Memphis, Tenn.:

"The international executive board of the UAW–CIO by unanimous action directs the members of local 988 to return to work and to cooperate with the international union and the management of the International Harvester Co. in implementing the provisions of the UAW–CIO-International Harvester agreement which provides for promotion based upon seniority and ability without regard to race, creed, color, or national origin.

"America cannot be a symbol of freedom and equality in the struggle against Communist tyranny and at the same time tolerate double standards in employment opportunities.

"The work stoppage in the Memphis International Harvester plant is unauthorized and is in direct violation of our contractual obligations and the international constitution of the UAW–CIO. A continuation of this unauthorized, illegal, and unconstitutional work stoppage can only create further difficulties which will result in hardship to all the workers and disciplinary action against those responsible for provoking this unauthorized action.

"The UAW–CIO international executive board has wired International Harvester management that 'our union completely supports the principle that any worker entitled to promotion on the basis of seniority and ability to handle the job shall not be denied promotion because of race, creed, color, or national origin and that if any member of our union in any of your plants attempts to obstruct such promotion, you may feel free, to take disciplinary action in the full knowledge that the union will not invoke the grievance machinery to defend a worker guilty of such obstruction.'

"All workers are urged and instructed to return to their jobs and to carry out their contractual and constitutional obligations.

"The UAW–CIO constitution was adopted by the democratic and unanimous action of approximately 3,000 delegates representing a million and a third members of our union.

"The international executive board is determined to see that the international constitution and the moral obligations contained therein are carried out to their fullest. We are of the firm conviction that the overwhelming majority of the workers in the International Harvester plant are in opposition to the current illegal and unauthorized action. We rely upon their good judgment and support in correcting this situation. We have advised the management of the International Harvester Co. of the unanimous action of the international executive board in the preceding wire."

Justice on the job is firmly established by prompt action

After this action by the executive board, the workers returned to their jobs and the Negro remained on the welding classification.

To those who say "the job cannot be done in the South," we say, "The job can be done."

The International Harvester situation and many other similar situations in the South are adequate evidence that if an unequivocal position is taken the results will be in the affirmative.

We believe you must have the courage to meet these situations squarely and promptly if they are to be solved.

We have worked on the theory that to do this job we have got to work on every front, at every aspect of every front, at every level of this job. We believe that, by and large, in the plants under contracts with our union we have been able effectively to integrate Negro workers into the productive classifications.

Plants escape fair employment policy despite wartime FEPC and Executive order on Government contract compliance

Several plants on the west coast would not institute fair employment practices in hiring during the wartime FEPC and the subsequent Executive orders issued after World War II.

In 1951 we found that the Chevrolet and Fisher Body plants of General Motors in Oakland, Calif., along with the Nash, Bendix, and Studebaker plants in Los Angeles, had not employed a single Negro worker during the periods in which the wartime FEPC and the subsequent Executive orders were in operation. Today, because of our negotiations with these companies, Negroes are enjoying for the first time in the history of these companies' west coast operations employment opportunities in these plants.

If Congress had acted in 1947 when, along with many others, we appeared before congressional committees to urge passage of Federal FEPC legislation, these unfortunate situations would not have persisted into 1951.

Another example which points up the need for a Federal FEPC is the employment pattern we found at the Fairchild Aircraft Corp., Hagerstown, Md., when we organized the plants. This company was not only guilty of "quota" hiring practices of Negroes but had set up a Jim Crow work pattern. The corporation had five plants which comprise the overall plant operation in Hagerstown. But the company had relegated all of its Negro employees to one segregated plant.

There are no laws in Maryland which the company could use as a convenient excuse to justify this action.

We demanded that, in keeping with the provisions of our collective bargaining agreement, its seniority provisions, etc., this policy of maintaining a Jim Crow unit be abolished. We insisted that each and every provision of our contract was applicable to every employee and that the union would not be a party to or condone such Jim Crow segregation.

Fairchild management then raised the stock excuse that the white workers would not work with the Negroes if they were transferred or promoted to the other four units. The management would not assume any responsibility for such action until such time as there were indications by the members of our local union that they were prepared to work with their Negro brothers and sisters. To remove this last excuse by the company for ducking their obligations under the agreement, our union followed through with the membership of this local union which voted unanimously to follow the constitution and contract as negotiated with the company. Fairchild has finally begun to integrate Negroes into the other four buildings, but has not yet put into practice the complete fair employment hiring policy which is an obligation of the company.

Skills have no color, but management does not agree

As we have worked for total integration of Negro men and women throughout our industry on production classifications, we have simultaneously worked for and are succeeding in bringing Negro youth into the apprenticeship training programs which are administered jointly by employers and the union.

We have approximately 399 joint management-union apprenticeship committees representing about 10,000 apprentices in the UAW–CIO.

With a membership as large as the UAW–CIO, the inquiry which automatically follows is, "Why do we have so few joint programs?" Fundamentally this is because managements have in the majority of instances, as the above figure indicates, insisted on a go-it-alone principle and stubbornly resisted our efforts in negotiations to establish joint programs with equal voice and participation by both the management and the union.

We have fought for the kind of program that would provide for a committee of an equal number of management and labor representatives to administer all of the phases of the apprenticeship training program. Such a procedure would give the union a voice in all the basic decisions arrived at with respect to policy. It would also give us the opportunity to see to it that the selection of apprentices is done on an impartial and unbiased basis.

The same old story is used in barring Negroes from apprenticeships

We have met substantially the same arguments and resistance by managements on this front that we met in our efforts to have incorporated into our agreements our model antidiscrimination clause. Most managements contend that to agree to a joint program providing equal participation for union and management would be to allow the union to "usurp management's prerogatives of hiring whom they please." This attitude is primarily responsible for our lack of an adequate number of available skilled mechanics, a problem which has confronted us both during World War II and in the period since the Communist attack on South Korea.

When we entered World War II our country had approximately 50,000 apprentices in all of the skilled trades, the metal trades, and all the other trades. During that period Germany had 2 million apprentices in training in various skilled trade occupations.

The National Manpower Council has received reports on our potential skilled manpower force as compared with other countries. We were told that the United States today has approximately 250,000 apprentices in training in skilled trades occupations. This includes all our trades. But in East Germany, a defeated country, today more than 1½ million apprentices are in training. This

disparity is, we believe, in part the result of American industry's failure to take advantage of the energies and skills of millions of Negro Americans who are eager to make their maximum contribution to our economy, limited only by their individual ability, without regard to race, religion, or color. These figures underscore the fact that today and in the near future, any underutilization or waste of manpower is a threat to our economy, our standard of living, and to the nations of the free world.

An effective Federal FEPC law would, we believe, be a tangible beginning in the direction of removing the barriers of discrimination which bar those capable of training from the advantages of receiving such training. It would commence to get down to the practical facts of life with respect to making available apprenticeable training to all applicants regardless of their race, religion, or color.

We in the UAW–CIO and the CIO firmly believe that skills have no color and we shall continue to work hard to provide an equal opportunity for Negro youth and youths of other minority groups to participate in all the apprenticeable training programs in which the union has a voice.

Model clause can aid, but Federal legislation is needed to speed justice on the job

In 1947 we said to the Congress, "The UAW–CIO takes in all workers regardless of color, race, religion, national origin, or ancestry. They all have the same membership status; there is no second-class membership in our organization." Further, we said, "The union has no control over hiring procedure. Only after an employee is hired by the company does he come under our jurisdiction, and only then do we have anything to say about his status in plant."

We disagreed at that time with the philosophy which management was advocating then, and continues to advocate today. We in the UAW–CIO decided that we were going to do something about it. At that time 20 percent of our contracts contained our model nondiscrimination clause which reads as follows:

"The company agrees that it will not discriminate against any applicant for employment, promotion, transfer, layoff, discipline, discharge, or otherwise because of race, creed, color, national origin, political affiliation, sex, or marital status * * *."

The main problem then is the main problem today. Management generally continues to hold tenaciously to its position that hiring policies and practices are solely management's prerogative.

Although every one of the UAW–CIO contracts contains provisions prohibiting discrimination against employees in the shop, it was our desire, through collective bargaining, to incorporate the entire model antidiscrimination clause quoted above in every UAW–CIO agreement. It is now written into more than 80 percent of our agreements.

But the tragic sticking point in too many negotiations is that management still refuses to include that portion of the model antidiscrimination clause which says, "the company agrees that it will not discriminate against any applicant for employment." The majority of managements all over the country has categorically refused to place this provision in the collective-bargaining agreements.

A sample of how legislation expedites education

In concluding the citation of efforts by the UAW–CIO in fighting for justice at the hiring gate, and the shop, union, and community we should like to point out the impact upon an employer in a community where FEPC has been enacted into law.

In Pontiac, Mich., after the recent enactment of a local FEPC law, the management of a certain large corporation, recognizing that it had long been hiring Negroes into classifications that were not commensurate with their skills, apparently had a guilty feeling and decided that it would poll the departments in which Negroes were employed to find out if any were desirous of going onto jobs in keeping with their skill. Mind you, the union had on repeated occasions insisted that Negroes should be hired without discrimination and on jobs in keeping with their abilities, but the company management took this action only after an FEPC law was put on the statute books.

This shows again that legislation expedites education.

In conclusion, we repeat: We can make more progress, and at a faster rate, with the help of an effective Federal FEPC. In today's world we cannot afford delay in establishing justice on the job throughout the United States.

XI. A CHECKLIST OF REASONS WHY FEPC IS NEEDED NOW

The need for an effective Federal FEPC is greater and more urgent now than it has been in the past 10 years, not because injustice on the job front is greater, but for these, some of them seemingly paradoxical, reasons:

(1) Because the spread between the incomes of white and nonwhite families, which had narrowed during the wartime FEPC, has widened again since;

(2) Because since 1947 the number of States having enforceable FEPC laws has increased from 4 to 11 and the number of cities having enforceable FEPC ordinances has increased to 36. This progress, giving most relief where least needed and no relief at all where most needed, has sharpened the contrasts, the double standards and the feeling of wrong and bitterness among those who suffer most discrimination.

(3) Because unemployment and the requirements of automation make the need for FEPC and better educational opportunities more acute;

(4) Because, as stated in section I of this statement, members of minority groups and millions of other citizens who are in earnest about abolishing discrimination in employment after being told year after year that the remedy is in (*a*) education, or (*b*) State FEPC laws, or (*c*) local FEPC ordinances, we who are in earnest about abolishing discrimination have, with few exceptions, been defeated by combinations of disproportionate representation in State legislatures, local prejudice, false propaganda, and fear of interstate or intercity competition;

(5) Because, today, in 1955, as in every year since World War II, our loss of moral standing and leadership among the members of the United Nations that results from the continuing shame of injustice on the job front in hiring and in upgrading, promotions, seniority, and all the other necessities for industrial democracy is greater than it was 8 years ago, when the facts about discrimination in employment within our borders were not as well known throughout the world as they are today;

(6) Because white dominion is dead or dying everywhere in the world, not only in Africa, but also here in the United States of America.

Mr. OLIVER. Rather than read the entire statement, we will highlight the most important points.

Mr. LANE. You may proceed.

Mr. OLIVER. Mr. Chairman and members of the committee, this is the fifth time in 8 years that representatives of the UAW–CIO have appeared before congressional committees to state the need for an effective FEPC law.

Today, as we shall show later, with more than 2½ million unemployed, the unemployment rate among nonwhite workers is twice as high as the unemployment rate among white workers.

I would like to point out for the record that we have a statement here entitled "Employment Status of the Civilian Institutional Population by Color and Sex for the United States" for the week of June 5–11, 1955. This statement is taken from the Current Population Reports, Labor Force, Bureau of the Census, Department of Commerce, July 1955, and I would like to make it a part of the record, if I may, at this point.

Mr. LANE. That will be done.

(The statement referred to is as follows:)

TABLE 12.—*Employment status of the civilian institutional population by color and sex, for the United States, week of June 5–11, 1955*

[Thousands of persons 14 years of age and over]

Employment status	White			Nonwhite		
	Both sexes	Male	Female	Both sexes	Male	Female
Civilian noninstitutional population	102,942	49,171	53,771	11,380	5,318	6,062
Civilian labor force	59,510	41,468	18,042	7,185	4,419	2,766
Percent of population	57 8	84 3	33 6	63 1	83 1	45 6
Employed	57,333	40,064	17,269	6,684	4,071	2,613
In agricultural industries	6,311	5,161	1,151	1,370	821	549
In nonagriculture	51,021	34,903	16,118	5,313	3,250	2,064
Unemployed	2,177	1,404	773	502	348	153
Percent of civilian labor force	3 7	3 4	4 3	7 0	7 9	5 5
Not in labor force	43,432	7,703	35,729	4,195	899	3,296

Source. From Current Population Reports, Labor Force, Bureau of Census, Department of Commerce, July 1955, series P–57, No 156.

Mr. OLIVER. We recognize the hard fact that any effective FEPC bill and any other substantial civil-rights bill faces rough going in the 84th Congress, either in the first session now drawing to a close or in the second session, starting in January 1956.

We recognize the fact that the way has been made harder for such legislation because we do not have majority rule in the United States Congress.

The American people may propose and plead; by using the discharge petition to get them to the floor, the House may pass FEPC and other civil-rights bill. But an anti-FEPC, anti-civil-rights minority in the Senate operating under Senate rule 22 stands ready to try to block and defeat the will of the majority of the American people, of the Members of the House and of the Senate by resorting to—or by threatening to use—the filibuster.

These obstacles can be overcome by determination and stamina of the type displayed by the enemies of civil-rights legislation.

Faced with the continual threat of veto by filibuster, the most undemocratic and antidemocratic feature of our Federal Government and one which we contend is unconstitutional, we nevertheless deem these very brief 3 days of hearings on some 51 civil-rights bills, including FEPC, of major importance. We consider it a duty to present again for the fifth time a comprehensive statement in support of effective civil-rights legislation and, particularly, a law that will establish an effective Federal FEPC, such as is provided in the Powell bill (H. R. 389) and identical or similar bills introduced by other Members of the House.

We urge your committee to report out such a bill and to follow up such action by pressing with the greatest determination for consideration, debate, and final vote by the Members of the House. If the House Rules Committee, which is controlled on many vital matters by a bipartisan coalition of southern Democrats and Republicans, refuses to report out the bill, we hope that a discharge petition will be circulated early in the second session in order to make sure that the measure can be brought to the floor early in that session.

Although all this effort, expenditure of time and money, by organizations and individuals devoted to the cause of establishing fair employment and other civil rights may be frustrated by the road-

block of the filibuster, the undertaking is worth while. It gives an opportunity to bring before the Members of the Congress and before the American people the up-to-date story of ways in which our pretensions and our fine words about freedom and democracy and equality of opportunity are made bitter on the tongues of some 20 million Americans who are discriminated against as members of minority groups and are contradicted by the day-to-day facts of discrimination as seen and heard by the peoples of other nations.

The report and recommendation of your committee and the debate upon the bills you recommend will prick the conscience of the Congress and of those among the American people who may have been given the impression that actions by State and local governments are adequate to meet the needs.

As I pointed out earlier, President Walter P. Reuther presented the first testimony for our organization in support of civil-rights legislation back in 1947. I would like to point out that on March 2, 1954, in a statement presented for the CIO and the UAW-CIO, President Walter P. Reuther told a congressional committee (the Senate Labor and Public Welfare Committee) that for us or for a congressional committee simply to retell the story of the need for an effective FEPC and nothing more may raise false hopes. Quoting an earlier statement on behalf of the UAW-CIO made in a similar hearing April 21, 1953, President Reuther said:

> To discuss the need for FEPC in a legislative vacuum would be to engage in transparent political paperhanging in an election year. It would not fool any considerable number of the more than 20 million American workers and their families who suffer the daily injustice of discrimination in employment. They know that the reason why they continue to suffer such discrimination is not because this committee has not acted on this FEPC legislation until now. They know it is because majority rule, necessary to get to a Senate rollcall vote on FEPC itself, is strangled by Senate rule 22.
>
> And the realization is growing that, by making a Senate vote on FEPC and other vital legislation less likely than in the past, rule 22 has converted a chronic legislative malady into an acute constitutional crisis that is a threat to the Nation's welfare and security.

President Reuther further said:

> Yet, despite this feeling of heartsickness and exasperation, we join with others who are in earnest about FEPC in coming here and again laying out for your committee, for the record and for those in press and radio who care and dare, and for the American people, the tragic human facts, the economic loss, the forfeiture of moral leadership among the people of the world that daily flow from continued discrimination in employment.

Mr. Chairman, I would like to mention in passing that in August of last year I had an opportunity to represent our union in southeast Asia. One of the most difficult problems I had during that entire visit was to answer the many questions posed by the southeast Asians as to why we have these problems in the United States.

In the long uphill struggle for the enactment of fair employment practices legislation, the House Labor Committee in 1945 favorably reported out a bill authorizing a permanent FEPC. The Rules Committee refused it a rule. This action was used as a basis for the Appropriations Committee's refusal to ask for funds for the wartime agency on grounds that the Rules unit would refuse a waiver rule on the entire war agencies funds bill, of which the FEPC item was to have been a part. The upshot was that the House could not get a clear vote on either the FEPC authorization bill or the FEPC funds item.

In 1945 the wartime FEPC established by President Franklin D. Roosevelt was put under a death sentence by a rider attached to an appropriation bill after a series of parliamentary maneuvers including Senate filibustering and the refusal of the House Rules Committee to grant a rule permitting the House to consider, debate, and vote upon either an appropriation or a permanent authorization for the agency on its own merits.

In 1949 the House Education and Labor Committee held hearings on FEPC and favorably reported a bill for floor action.

In 1950, under the 21-day rule permitting committee chairmen to bypass the bipartisan coalition in the House Rules Committee and bring a bill directly to the House floor 21 days after it had been reported to the Rules Committee, an FEPC bill was put on the House floor for debate and vote.

I would like to point out that the only time in the past 80 years that Congress has enacted, or that any FEPC bill has ever gotten to the floor of the House, was under the 21-day rule which was in effect in 1950. On this occasion, southern Democrats joined with Republicans in voting to substitute the Republican McConnell FEPC bill, which lacked the power of enforcement through the courts for the Powell bill providing for such enforcement.

Even this weak substitute bill, containing subpena power to obtain books, records, and testimony but lacking any means for obtaining compliance with recommendations, died in limbo, killed by the veto of the filibuster threat in the Senate.

Now I would like to jump to the part of our prepared statement on page 5 entitled "A Congressional Committee Tells Where the Body of FEPC Is Buried."

In April 1952, late in the 2d session of the 81st Congress, hearings were held on the Ives-Humphrey bill, virtually identical with earlier FEPC bills and with the bills now before this committee. On July 3, almost unnoticed in the rush to Chicago for the Republican and Democratic National Conventions, the Senate Labor and Public Welfare Committee—Senators Hill, Taft, and Nixon dissenting—reported out the bill with the recommendation that it pass, but, as had been suggested to us during the hearings, stating in polite parliamentary language just where the body of FEPC was buried, who had killed it, and why:

> Unfortunately it lies within the power of a few to prevent real consideration of this matter in the Senate. We urge free and complete debate, but we deplore the provisions of rule 22 which permit enfeeblement of this great deliberative body.

I would like to add here that, as has been noted earlier, the bottleneck is much the same in the House Rules Committee.

The 1952 Republican platform was silent on the question of the veto power of the filibuster; it passed the buck to the States on FEPC, a position spelled out during the campaign by the Republican presidential nominee, as noted herein.

The 1952 Democratic platform pledged Federal action for FEPC and other civil-rights legislation and faced up to the parliamentary reality of veto filibuster in pledging the establishment of majority rule in the Congress.

Now I would like to point out that as 1952 presidential candidate, General Eisenhower said:

I am going to try to enlist the help of all of the governors to press in their States the fight on discrimination in employment. New York has set an example. We will not use civil rights for bait in election after election. We intend to deliver real progress for all and we will.

That statement was made by General Eisenhower when he spoke in the Bronx on October 29, 1952.

But on October 29, 1952, the same day that General Eisenhower spoke in the Bronx, Gov. James F. Byrnes, of South Carolina, speaking with Governors Shivers of Texas and Kennon of Louisiana on that part of a nationwide radio-TV program that was beamed to Southern States, said——

Mr. BURDICK. When was that?

Mr. OLIVER. This was on October 29, 1952, the same day that General Eisenhower spoke in the Bronx. Gov. James F. Brynes, of South Carolina, speaking with Governors Shivers of Texas and Kennon of Louisiana on that part of a nationwide radio-TV program that was beamed to Southern States, said—this is what Mr. Byrnes said:

Let me speak of General Eisenhower * * * He does not believe in compulsory legislation by Congress on the subject of fair-employment practices.

Mr. SIFTON. May I point out that this has bearing on the South Carolina statute that was read into the record by Mr. Wilkins this morning.

Mr. LANE. Thank you very much.

Mr. OLIVER. You will note on the bottom of page 7 that in documenting our testimony we have given recognition to the limited amount of work that has been done by the administration in the area of civil rights. but we say that none of these, however, touch the basic problem of equal opportunity in civilian employment other than on Government contracts.

A few days ago President Eisenhower attempted to dismiss as "extraneous" proposals to include antisegregation provisions in pending legislation creating an Armed Forces Reserve, providing Federal aid for school construction, and for low- and middle-income housing.

I believe the illustrious chairman of this committee made a statement on the first day of these hearings, that President Eisenhower and policy-forming members of his administration, with one exception, the Administrator of the Home Finance Administration, seemed to suggest that these hearings and these bills were in their judgment also extraneous.

We do not consider them to be extraneous.

May I point out that Mr. Celler stated in his testimony:

Apparently the administration wants to have its cake and eat it too. The agencies decline to express themselves. Why? Apparently the administration does not want to alienate voters in certain sections of the country, the South, for example, who supported Eisenhower.

The administration gives the impression that it supports these bills with pontifical declarations. It does not implement these declarations by deeds and actions. The administration dares not oppose these bills. It is afraid to come down to the Judiciary Committee and approve them. Such a pusillanimous attitude is most unworthy.

That was from the statement which the chairman of this committee made the first day these hearings were held.

In continuing, I would like to point out that, in passing, it should be noted that Housing and Home Finance Administrator Cole, who appeared before your committee only as Administrator Cole, not as a spokesman for the Eisenhower administration, cited the FHA ban on insured loans for restricted covenant property that was issued in 1949 under President Truman following the 1948 Supreme Court decision. Mr. Cole's specific program stopped with that. He expressed a banker's fear of part 6 of the omnibus Powell bill (H. R. 389) that would plug the present gaping loopholes in FHA regulations which—

1. Permit 85 percent of federally sponsored public housing to be segregated;

2. Allow slum-removal programs financed by Federal funds to clear minority groups out of their existing homes without making provision for any new housing for them; and

3. Provide little or no FHA-insured housing for minority groups.

Mr. Cole was more concerned about possible violations of such a requirement and agreement and the effect of violations on the mortgage market than he was with the need for making sure that United States taxpayers' cash and credit will be used for fair housing and fair housing only. Such an attitude seems to be a broad invitation to builders of lily white and "Jim Crow" housing projects to continue to come and get it—providing no such discriminatory policy is put in writing and recorded. This is what we get out of reading Mr. Cole's quims and qualms. If our reading is unfair, we hope your committee will give Mr. Cole opportunity to correct or clarify his testimony.

The contempt for these bills, for this committee, and more important, for widespread conditions of economic, social, and political discrimination, injustice, individual heartbreak, and mass tragedy that was expressed by the Eisenhower administration's refusal either to appear or to present statements to your committee will not pass unnoticed by the American people now or in 1956. We urge your committee to take due note in your report and findings.

On page 10 we deal with the big runaround by the FEPC since we have been here. We have been into the various State capitals. We have been into the local communities and we have worked hard to get fair-employment-practice legislation passed on these levels.

You will note at the middle of page 10, that in 1947, 4 States—New York, New Jersey, Connecticut, and Massachusetts—have passed FEPC laws. By 1954, 4 other States had passed fair-employment-practice laws, and out of the 15 States which have passed fair-employment-practice laws to date, 5 of these States have laws which are not effective; they include Wisconsin, Indiana, Kansas, Arizona, and Colorado.

This year, of course, out in the State of Michigan where we have been doing a terrific job for the last 10 years, in an effort to get FEPC legislation passed at the State level, we were very fortunate along with Minnesota to get a bill passed, and in Michigan a Republican legislature turned down Gov. George Mennen Williams' request for a State FEPC law which he made year after year since he was first elected in 1948. In the 1954 election, I would like to point out, despite grossly unjust apportionment of the legislative district within

the State, the liberal Democratic vote increased so markedly—23 Republicans, 11 Democrats in the Senate; 59 Republicans, 51 Democrats in the House as compared with 22 to 8, and to 64 to 34 in 1953—that 29 Republicans in the House and 10 in the Senate joined 51 Democrats in the House and 10 in the Senate in supporting and passing a State FEPC law.

The new law will become effective October 14, 1955.

In addition to the 15 States, there are 36 cities that have adopted fair-employment-practice laws during the last several years. Obviously, as we point out in this statement, the State laws and municipal ordinances leave the worst areas of discrimination and exploitation untouched. And during the past year—and we are dealing primarily here with civil rights legislation, anti-civil-rights leaders have used the United States Supreme Court decision decreeing the end of segregation in public schools, to launch extra-legal, if not illegal, economic sanctions against Negroes in Mississippi and other parts of the South, extending such reprisals and sympathetic attempts at intimidation to others who stand with Negroes in support of the Supreme Court decisions and decrees.

I think, Mr. Chairman, you will recall that early this morning Mr. Roy Wilkins of the NAACP dealt at great length with the economic sanctions and other intimidations and even in one particular instance, murder, as it were, which have been carried out in the South recently with regard to I think, what was referred to by him, perhaps, as vigilante groups.

I would just like to add one thing to that very fine statement made by Mr. Wilkins this morning in this regard: This is a clipping from the Birmingham News of November 30, 1954, which says:

1,200 WHITE MEN ATTEND RALLY ON DESEGREGATION

SELMA, ALA., November 30—While a spokesman had previously hinted of economic reprisals against Negroes pressing for racial desegregation, the topic was scarcely mentioned at a mass meeting of the newly organized White Citizens Council here last night.

Some 1,200 white men turned out for the rally in the Alabama Black Belt center. If they came to hear how the racial problem should be handled, they didn't get it from the three principal speakers—all from Mississippi.

Selma Attorney Alston Keith, chairman of the White Citizen Council and also chairman of the Dallas County Democratic Executive Committee, made the only reference to economic sanctions.

And further on:

Speakers were Representative J. S. Williams and Senator T. M. Williams, both members of the Mississippi Legislature and a Presbyterian minister, the Reverend M. H. Clark.

And I would like to point out that Mr. Williams took time to criticize severely several leaders of the Methodist Church for their recent statement favoring desegregation.

I read this, Mr. Chairman, because this may enlighten the committee with respect to the name of the organization and some of their activities.

If it please the committee, I would like to put this in the record.

Mr. LANE. We will be glad to have it made a part of the record at this point.

(The news item referred to follows:)

[From the Birmingham News, November 30, 1954]

TWELVE HUNDRED WHITE MEN ATTEND RALLY ON DESEGREGATION

SELMA, ALA., November 30.—(AP)—While a spokesman had previously hinted of economic reprisals against Negroes pressing for racial desegregation, the topic was scarcely mentioned at a mass meeting of the newly organized White Citizens Council here last night.

Some 1,200 white men turned out for the rally in this Alabama Black Belt center. If they came to hear how the racial problem should be handled, they didn't get it from the three principal speakers—all from Mississippi.

Selma Attorney Alston Keith, chairman of the White Citizens Council and also chairman of the Dallas County Democratic Executive Committee, made the only reference to economic sanctions.

He observed that no economic pressure will be applied "that has not already been sanctioned by the courts of Alabama and the United States Supreme Court."

Newspaper photographers were barred from the meeting and reporters told they would have to have their stories approved by the council's executive committee.

Keith noted at the close of the meeting, however, that nothing "controversial" had come up and there was no attempt to censor the newspaper accounts.

Speakers were Representative J. S. Williams and Senator T. M. Williams, both members of the Mississippi Legislature, and a Presbyterian minister, the Reverend M. H. Clark.

The house member observed that the Citizens Committee of Mississippi is not a Ku Klux Klan but aims at giving a direct answer to the National Association for Advancement of Colored People.

"We have a heritage in the South for which we should ever be vigilant," he said. "The NAACP's motto is 'the Negro shall be free by 1963' and shall we accept that?"

Representative Williams said to accept the NAACP plan would ruin the economic system of the South. He said southern men can't straddle the fence on the issue of being for or against the council's objectives.

The Reverend Clark contended that the segregation issue was "catapulted upon us by nine obscure men of the Supreme Court."

"The Supreme Court is not a legislative body but it is designed to follow precedent of the law and to interpret the law. It is not designed to make a declaration of policy for the Nation.

"I came here tonight, not as a minister, but as a private citizen to instill in you a sense of rightness for your cause," he continued.

Senator Williams, a lanky elderly man with a high-pitched voice, told the crowd, "We are charged with defying the United States Supreme Court."

"The time has come when citizens should sacrifice something for their country and we need leadership in this fight," he said.

Williams also took time to criticize severely leaders of the Methodist Church for their recent statements favoring desegregation.

About 600 Dallas County men in the audience contributed $3 each to become members of the organization. Keith said the new members would bring the council's total membership to 800 white men.

In nearby Marengo County, a similar rally was held last night by the Marengo County Citizens Council. The group elected Circuit Solicitor Tom Boggs as temporary chairman and scheduled another meeting at the courthouse in Linden, December 6.

Mr. OLIVER. On page 12 of the statement, we deal with the civil-rights record of the 83d Congress. I should like, however, to move over to page 13, to bring you up to date, where we deal with this question: Has the 84th Congress nailed its feet to the floor on civil rights?

In the name of party unity, liberal Democrats did not raise the question of adopting new rules including a new rule 22 on the opening day of the 84th Congress. Senator Herbert Lehman, Democrat-Liberal, of New York, made a statement the following day, January 6, 1955, renewing his pledge to continue the fight for majority rule.

On February 1, 1955, Senator Humphrey and other Senators intro-

duced a bundle of 8 bills with the hope and prayer expressed by Senator Humphrey, that 1 or 2 might be passed.

But with the acceptance of rule 22 for this session, it seemed likely that any Senate action on such bills would only be by arrangement with the anti-civil-rights southern wing of the Democratic Party. This appears to amount to a veto, by threat of a filibuster leveled in advance against FEPC, that is difficult, but not impossible, to override.

At the top of page 15, early in the statement, we mentioned the tremendous question of how unemployment has affected nonwhite groups. Today, with unemployment reported by the Census Bureau at 2,679,000 for the week of June 5–12, the employment rate among nonwhite workers is about twice as high as the unemployment rate among white workers.

Of the 2 million total, 177,000 were white and 502,000 were nonwhite. Expressed as percentages of the nonmilitary labor force, the white jobless rate was 3.7 and the nonwhite 7.0.

It seems to me that these figures which we have entered into the opening part of our testimony, Mr. Chairman, greatly clear up the whole question of just how difficult, how tragic is this whole business of unemployment at the present time.

Mr. LANE. I wonder, Mr. Oliver, if you can pick out some of the highlights, since your statement is all going into the record anyhow; and I assure you that the other members of the committee will read the statement and since you know the House is in session now, and I am advised that we are expected to have another vote shortly, and I would like to give the other witnesses an opportunity to testify?

Mr. OLIVER. Very well, Mr. Chairman.

At the bottom of page 15, we show much ground has been lost since the death of the wartime Federal FEPC.

With regard to FEPC, I should like to call attention to page 17, to table shown in the last column, which tells a tragic story of the ratio of medium income, urban white and nonwhite families. The ratio in 1945 was 67 percent of nonwhite families. In 1951 it had fallen to 61 percent.

And to move along to the table on page 18, table III, which gives the example of the cost of living budget, city workers, family budget, and you will notice that the Negroes are living on a deficit basis which we think is un-American and not in keeping with proper standards.

At the middle of page 19, the record of postwar job discrimination in one State. We shall not take time to deal with that here; I am sure you will read it.

Mr. SIFTON. We have in the back of this an official statement for Illinois, Ohio, and Pennsylvania, filling in the picture for those other three States.

Congressman Boyle inquired about the nature and location of discrimination as between skilled and nonskilled, and there is an official report from Illinois, in our 1954 studies, that I think supplies some factual information on the point that he made earlier today.

Mr. LANE. Very well. That will be a part of the record?

Mr. SIFTON. There are three items in the back of this mimeographed statement, and I will designate them to the stenographer for the record.

Mr. LANE. That will be a part of the entire statement?
Mr. SIFTON. Yes.
Mr. LANE. Without objection, it will be included in the record.
(The statement referred to follows:)

NINETEEN HUNDRED AND FIFTY-FOUR PENNSYLVANIA STUDY REVEALS GREATEST DISCRIMINATIONS IN SKILLED OCCUPATIONS

The Governor's commission on industrial race relations reported September 1954 on the nature and extent of discriminatory practices in employment, giving this summary of principal findings:

"Imposition of nonoccupational restrictions increased progressively, being lowest at the unskilled level, rising for semiskilled and skilled levels and reaching a peak for office, engineering, and sales occupations.

"Six out of ten firms did not discriminate in any way against any minority group in hiring unskilled workers.

"Nearly half of the surveyed establishments imposed no restrictions on the employment of minorities in semiskilled occupations.

"Two-thirds of the firms raised artificial barriers in the hiring of workers at the skilled level.

"Nine out of ten surveyed firms imposed nonoccupational restrictions in hirings for office, engineering, and sales occupations.

"Most of the discrimination was directed against Negroes, but significant evidence of restrictions against Jews and other religious and nationality groups was disclosed.

"Nearly all firms imposing artificial restrictions on hiring, discriminated against one specific minority group.

"'Tradition' and 'company policy' were most often cited as the principal reasons for discriminatory practices.

"Discriminatory employment practices were more extensive among establishments in the southwest and central regions of the State and least in the northeast region.

"Change in restrictive hiring practices during the past 5 years was limited. Tight labor-market conditions and a decreasing labor supply were the principal reasons cited for liberalization.

"One-tenth of all surveyed firms were found to impose no nonoccupational restrictions in hiring, apprenticing, upgrading, or promoting workers in any occupational group; nine-tenths were found to discriminate in at least one or more of these respects for one or more occupational levels.

"Less widespread discrimination was disclosed among establishments in the largest and smallest size groups. In general, the extent of discrimination diminished as the size of the establishment increased.

"Nearly three-fourths of the establishments classified as discriminatory imposed restrictions in their promotional and upgrading policies.

"Slightly more than three-quarters of the discriminatory establishments which employed apprentices were found to be limiting apprenticeship opportunities for minority group workers."

1954 OHIO STUDY OF DISCRIMINATION IN EMPLOYMENT SHOWS "SERIOUS AND PRESSING NEED FOR FAIR EMPLOYMENT PRACTICES"

Testifying April 13 before the Commerce and Labor Committee of the Ohio State Senate, Donald Beatty, State supervisor, minority groups services, reported:

"Let us begin with the census figures corrected by the bureau's division of research and statistics to make the figures current. Total population in Ohio approximates 7.9 million, 513,000 or about 6.5 percent of whom are nonwhite. Total urban population (localities over 2,500) is 5.6 millions of whom 480,000 are nonwhite. The ratio or proportion of nonwhites in urban areas to total Ohio nonwhite population is about 93.7 percent. This means that 9 of every 10 nonwhite live in urban areas. Further, the Bureau has determined that about 5 of every 6 nonwhites make their home in Ohio's 12 most heavily populated industrial centers.

"The point to be made from these figures is that problems of discrimination in employment can best be clearly observed in the industrial centers. To be sure, discrimination in employment exists in acute form in numerous small localities—the passage of FEP legislation in four of these localities attest to this fact. But

it was felt that the clearest picture of the situation could be presented to you if we made available accurate information of what nonwhites face in employment discrimination where numbers live, where industries are concentrated, and where localities are not covered by FEP legislation.

"Fortunately, we have made such a study. For the period January 1, 1954, through September 5, 1954, 9½ months, an intensive and factual analysis was made of 661 employer orders (1,251 openings) received from 116 major employers (employing 143,000 workers) in the Columbus, Dayton, and Cincinnati areas. These orders were examined as to their status, i. e., discriminatory or nondiscriminatory.

"A discriminatory order is one that specifies applicants only of a certain race, creed, color, or national origin are acceptable. Such orders usually specify 'white,' 'no Catholics,' or some such notation. A negligible number specify 'nonwhite.'

"We submit that the findings accurately reflect the situation today since, to our knowledge, nothing has occurred since that time that would alter the situation to any appreciable extent. Highlights of the findings of this study of bureau records are:

"1. The evidence revealed discrimination as to race was practiced to a rather high degree in hiring of 95 percent of 116 concerns in the Columbus, Dayton, and Cincinnati areas during the period studied.

"2. In Columbus, nearly 3 of every 5 (57.3 percent) orders for regular full-time jobs were discriminatory; in Dayton nearly 4 of every 5 (78.9 percent) were restricted; in Cincinnati, 7 of every 10 (71.4 percent) were discriminatory.

"3. Discriminatory hiring practices according to the evidence, existed in all occupational levels to an appreciable degree.

"You will be interested to know that as late as March 1955, reports show that 3 of every 5 orders (60 percent) for regular full-time jobs in our Akron office were discriminatory; similarly, in Toledo just prior to the passage of its FEP ordinance, a survey revealed that 58 percent of the orders for regular full-time jobs were discriminatory.

"Now this is not to say that all employers engage in discriminatory employment practices. Indeed, numerous Ohio employers have made great strides of progress toward use of all qualified workers of their highest skill without regard to race, creed, color, or national origin. While these employers are to be commended for their fairness, the evidence leads to the inescapable conclusion that the need for employment opportunities on merit remains serious and pressing.

"According to records of the research and analysis division of the bureau, in Ohio's 8 largest cities, a total of 128,000 male claimants received initial payments of unemployment benefits in 1954. Of the total, 1 of every 5 (28,214 or 22 percent) were nonwhite males. On the other hand, nonwhite women accounted for 11 percent of the total women receiving first UC payments in the 8 largest Ohio cities during 1954.

"These figures reveal the extreme vulnerability of nonwhite males to employment upswings and downswings—the marginal worker. In the case of women, it reflects an even more serious condition—they have not been absorbed by industry to the extent they can be termed 'marginal'—as a group they are hardly affected."

1954 Illinois Study Shows Decline in Nonwhite Percentages of Employees in Firms Sampled

The Illinois State Commission on Human Relations in its Sixth Biennial Report, 1953–55, published March 1955, reported on surveys of the status of nonwhite employment, based on a sampling of firms throughout the State in 1950, 1952, 1954, as follows:

"The questionnaires returned covered a minimum of 192,374 employees, of which 11.3 percent were nonwhites. The proportion which were nonwhite was above the 1950 figure of 9.2 percent. On the other hand, the percentage of firms employing no nonwhites had increased slightly, from 36.1 percent in 1950 to 36.5 percent in 1954.

"Only 800 firms in the sample gave figures on the racial distribution of their employees for both 1953 and 1954. These showed a decline of 8.6 percent in the total persons employed. Nonwhites were 12.7 percent of those employed by these firms in 1953 and 11.3 percent in 1954. In those firms a nonwhite worker was 2½ times as likely as a white worker to be laid off during the 2-year period.

"The percentage of employees which were nonwhite varied greatly from one industry to another, from 0 in both communications and real estate to 52.6 in textile-mill products.

"The 1954 survey showed concentrations of nonwhites in certain industries. For example, more than twice as great proportions of the nonwhite workers as of the white were reported in personal services, public administration, and the manufacturing of primary metals, textile-mill products, products of petroleum and coal, and leather, whereas less than half as great proportions of the nonwhite employees as of the white were in finance, insurance, and real estate, and the manufacture of nonelectrical machinery and professional instruments, photographic goods, and watches and clocks.

"Nine hundred and two firms with 180,247 employees gave information on their occupational classifications. Only 1.9 percent of the white-collar jobs were held by nonwhites, as compared with 14.6 percent of the blue-collar jobs. This racial difference in occupational status is further demonstrated by the fact that 6.1 percent of the nonwhite employees were in white-collar occupations, as compared with 37 percent of the white employees. The percent of the nonwhite workers in blue-collar occupations was 93.9, as compared with 63 percent of the white workers."

Mr. OLIVER. In view of the time element, Mr. Chairman, I would like to conclude by saying that the UAW-CIO has established within its fair-employment practices and antidiscrimination department 1 cent per month for dues-paying members to put in a fund for the purpose of conducting and carrying out an overall program among our members and communities across the country and fighting against discrimination.

I think the committee is entitled to our contentions here shown on page 22; we have explained the work of our committee and the kind of opposition we have met with management across the country in trying to get our model antidiscrimination clause in contracts where our efforts have succeeded in other areas of upgrading and promotion of Negroes to better jobs.

I want to conclude by turning to page 31 to give you a checklist of reasons why the FEPC is needed now.

The need for an effective Federal FEPC is greater and more urgent now than it has been in the past 10 years, not because injustice on the job front is greater but for these, some of them, seemingly paradoxical reasons:

(1) Because the present spread between the incomes of white and nonwhite families, which had narrowed during the wartime FEPC, has widened since.

(2) Because since 1947 the number of States having enforceable FEPC laws has increased from 4 to 11 and the number of cities having enforceable FEPC ordinances has increased to 36. This progress, giving most relief where least needed, and no relief at all where most needed, has sharpened the contrasts, the double standards and the feeling of wrong and bitterness among those who suffer most discrimination.

(3) Because unemployment and the requirements of automation makes the need for FEPC and better educational opportunities more acute.

(4) Because, as stated in section 1 of this statement, members of minority groups and millions of other citizens who are in earnest about abolishing discrimination in employment after being told year after year that the remedy is in (*a*) education, or (*b*) State FEPC laws, or (*c*) local FEPC ordinance, we who are earnest about abolishing discrimination have, with few exceptions, been defeated by combinations

of disproportionate representation in State legislatures, local prejudice, false propaganda, and fear of interstate or intercity competition.

(5) Because, today, in 1955, as in every year since World War II, our loss of moral standing and leadership among the members of the United Nations that results from the continuing shame of injustice on the job front in hiring and in upgrading, promotions, seniority and all the other necessities for industrial democracy is greater than it was 8 years ago, when the facts about discrimination in employment within our borders were not as well known throughout the world as they are today.

(6) Finally, because white dominion is dead or dying everywhere in the world, not only in Africa, but also here in the United States.

Mr. LANE. I thank you very much, Mr. Oliver, for your statement, and your discussion of these bills. I can see that it is a very well prepared statement, and I know that the rest of the members of the committee, when they have opportunity to read the record, will be helped a great deal by your presentation. I want to thank you for waiting so long today to be heard.

Mr. OLIVER. Thank you.

Mr. LANE. Your entire statement, of course, will be in the record.

Mr. OLIVER. Thank you, Mr. Chairman.

Mr. LANE. The next witness is Mr. John W. Edelman, Washington representative of the Textile Workers Union of America, Washington, D. C.

Is Mr. Edelman here?

Then the next witness is Mr. John J. Gunther, legislative representative, Americans for Democratic Action.

STATEMENT OF JOHN J. GUNTHER, LEGISLATIVE REPRESENTATIVE, AMERICANS FOR DEMOCRATIC ACTION

Mr. GUNTHER. Mr. Chairman and members of the committee, my name is John J. Gunther. I am the legislative representative of the Americans for Democratic Action. I appear here today to present the views of the ADA on the civil rights measures and questions before your subcommittee. We appreciate the opportunity to appear and present our views.

During the past 3 years legislation on the subject of civil rights has been almost forgotten in the Congress and has been abandoned or opposed by the executive branch. These are the first hearings on civil-rights legislation that the House has held since 1950 and these come in the final hours of this session of Congress. When your subcommittee afforded the administration an opportunity to appear here and present its views on the pending measures the major officers of Government who can and should speak for the President either ignored the request of this committee or replied that they were not prepared to testify.

Mr. Cole, Administrator of the Housing and Home Finance Agency, did appear and give testimony as to his views. This is a disgraceful record of performance on the part of the Congress and on the part of the administration. Disgraceful, we say, because both major political parties are pledged to action in the civil-rights field but have failed to honor their pledges.

We in ADA as well as other organizations and individuals who are interested in action on civil-rights legislation know that favorable results are not easily obtained. They take determination, dedication, and hard work. Promises at convention time and pledges from the stump are easily made but we would suggest that the parties and individual candidates who are not willing to put in the hard work that favorable action demands abandon the hypocrisy of constant pledging and continued inaction. We all know that action on civil-rights measures is possible if those who make the promises and pledges will put their minds and bodies into the effort. ADA urges that the Members of Congress who say they are for civil-rights legislation put as much heart and backbone into the fight for action as those who oppose such action have done and will continue to do. There is no doubt that if this were done we would see real progress under law in the removal of segregation and other forms of discrimination from our Nation.

Congress has regarded as "action on civil rights" the holding of hearings and writing of committee reports. We would suggest that real action comes only with the floor battle and open and recorded vote. That there will be no doubt in the record as to who made what promises let me quote briefly from candidate Eisenhower and the Republican and Democratic Party platforms of 1952:

(Part of statement submitted for record follows:)

"Let us once and for all resolve that henceforth we shall be guided in our relations with our fellows by the American creed that all men are created equal—and remain equal. All of us who salute the flag, whatever our color or creed or job or place of birth may be, are Americans entitled to the full rights and the full privileges of our citizenship. In a time, when America needs all the brains, all the skills, all the spiritual strength and dedicated services of its 157 million people, discrimination is criminally stupid."—Eisenhower, American Legion, New York City, August 25, 1952.

"Third, we seek in America a true equality of opportunity for all men. I have no patience with the idea of second-class citizenship. For many years the administration party has been pointing to a promised land where no American would be subject to the indignity of discrimination. But their promised land has always proved to be a political mirage.

"It is time that leadership was put in the hands of those willing and able to advance the cause of equality of opportunity. To advance this cause there are many things that we can and must do."—Eisenhower, Wheeling, W. Va., September 24, 1952.

"We will move forward more rapidly to make equality of opportunity a living fact for every American Wherever I have gone in this campaign, I have pledged the people of our country that, if elected, I will support the Constitution of the United States, the whole of it. And that means that I will support and seek to strengthen and extend to every American every right that that Constitution guarantees.

"Equality of opportunity was part of the vision of the men who founded our Nation. It is a principle deeply imbedded in our religious faith. And neither at home nor in the eyes of the world can America risk the weakness which inevitably results when any group of our people are ranked, politically or economically, as second-class citizens."—Eisenhower, Columbia, S. C., September 30, 1952.

"We must make equality of opportunity a living fact for every American, regardless of race, color, or creed. To do that is part of the unfinished business of America.

"Equality of opportunity has its strongest roots in our religious faith. Every individual act, every law, every political maneuver, every pressure which infringes on the political and economic rights of any American or any group of Americans weakens America. It gives powerful ammunition to America's enemies. It will eventually betray the freedom of each of us.

"Even worse is the betrayal by those who seek to turn this problem to their political advantage."—Eisenhower, Los Angeles, October 9, 1952.

"Now, I bring you another question obviously of great interest to you people. We know that America has not achieved under its great Constitution that full perfection of operation that it should with respect to equal opportunity for all citizens. There is discrimination. This crusade is pledged to use every single item of leadership and influence it has to eliminate it. It intends to enforce the full Constitution, not part of it.

"Specifically, something has been said about my past efforts to eliminate segregation in the services. * * * That has gone on. It is well underway, and I pledge you that it is going to be done promptly and without any further alibis or excuses.

"Next, my friends, in the Nation's Capital we have had the poorest possible example given to those of other lands of what this country is and what it means to each of us. So far as there is power placed in me as an individual or officially, I shall never cease to work with all the power I can to get rid of that kind of thing in the District of Columbia. Let me extend that. Wherever the Federal Government has responsibility; wherever it collects taxes from you to spend money, whether it be in a contract for recreational facilities or anything else that it does for a citizen of the United States, there will be no discrimination as long as I can help it in private or public life based upon any such thing as color or creed or religion—never. Wherever funds are used, where Federal authority extends, there will be fairness.

"What I promise you is work—never-ending work—to make certain that justice is done."—Eisenhower, Harlem, October 25, 1952.

"Our crusade will fight unceasingly for all those things that have made our American system what it is. We will strive to make equality of opportunity a living fact for every American I have said this in every part of our country—in Newark, N. J.; Tampa, Fla.; Boston Mass.; and Columbia, S. C. Second-class citizenship reflects second-class Americanism. We will put an end to the exploitation of remaining discrimination for political advantage. Our crusade offers real progress based on positive leadership.

"And another thing, our crusade for equal economic and political rights will have the indispensable support of the Vice President as he presides over the Senate."—Eisenhower, Chicago, October 31, 1952.

"I pledge to devote myself toward making equality of opportunity a living reality for every American. There is no room left in America for second-class citizenship for anybody."—From a summary of campaign pledges released by Eisenhower's New York headquarters, November 1, 1952.

"The Republican Party will not mislead, exploit, or attempt to confuse minority groups for political purposes. All American citizens are entitled to full, impartial enforcement of Federal laws relating to their civil rights.

"We believe that it is the primary responsibility of each State to order and control its own domestic institutions, and this power, reserved to the States, is essential to the maintenance of our Federal Republic. However, we believe that the Federal Government should take supplemental action within its constitutional jurisdiction to oppose discrimination against race, religion, or national origin.

"We will prove our good faith by:

"Appointing qualified persons, without distinction of race, religion, or national origin, to responsible positions in the Government.

"Federal action toward the elimination of lynching.

"Federal action toward the elimination of poll taxes as a prerequisite to voting.

"Appropriate action to end segregation in the District of Columbia.

"Enacting Federal legislation to further just and equitable treatment in the area of discriminatory employment practices. Federal action should not duplicate State efforts to end such practices; should not set up another huge bureaucracy."—Republican platform.

"In order that the will of the American people may be expressed upon all legislative proposals, we urge that action be taken at the beginning of the 83d Congress to improve congressional procedures so that majority rule prevails and decisions can be made after reasonable debate without being blocked by a minority in either House.

"The Democratic Party is committed to support and advance the individual rights and liberties of all Americans.

"Our country is founded on the proposition that all men are created equal. This means that all citizens are equal before the law and should enjoy equal political rights. They should have equal opportunities for education, for economic advancement, and for decent living conditions.

"We will continue our efforts to eradicate discrimination based on race, religion, or national origin.

"We know this task requires action, not just in one section of the Nation, but in all sections. It requires the cooperative efforts of individual citizens and action by State and local governments. It also requires Federal action. The Federal Government must live up to the ideals of the Declaration of Independence and must exercise the powers vested in it by the Constitution.

"We are proud of the progress that has been made in securing equality of treatment and opportunity in the Nation's Armed Forces and the civil service and all areas under Federal jurisdiction. The Department of Justice has taken an important part in successfully arguing in the courts for the elimination of many illegal discriminations, including those involving rights to own and use real property, to engage in gainful occupations, and to enroll in publicly supported higher educational institutions. We are determined that the Federal Government shall continue such policies.

"At the same time, we favor Federal legislation effectively to secure these rights to everyone: (1) The right to equal opportunity for employment; (2) the right to security of persons; (3) the right to full and equal participation in the Nation's political life, free from arbitrary restraints. We also favor legislation to perfect existing Federal civil-rights statutes and to strengthen the administrative machinery for the protection of civil rights."—Democratic platform.

Mr. GUNTHER. Three years have passed since these pledges were made. There has been no action on them. The American people have no alternative but to view this bipartisan default as brazen political hypocrisy. Let me reiterate that ADA views this default as bipartisan-The Republicans and Democrats, or Democrats and Republicans, are both guilty of inaction. True, there has been much civil rights progress in the courts. Judicial decisions, however, are no substitute for executive and congressional action, nor excuse for inaction. The Constitution invests the Executive and the Congress with the responsibility for enforcing the guaranty of equality. In failing to assume this responsibility, the Executive and the Congress are not only reneging on campaign promises, but also on their constitutional responsibilities.

Insofar as the executive branch is concerned, the American people have gotten little encouragement of civil rights action from President Eisenhower. While the President speaks genially and often of his belief in equality of citizenship, his performance shows little understanding of the problem. He has labeled as "extraneous" what few civil rights measures have been proposed, but has failed to support or propose any civil rights legislation of his own. President Eisenhower is making a mockery of his 1952 pledge in Harlem that—

Wherever the Federal Government has responsibility; wherever it collects taxes from you to spend money, whether it be in a contract for recreational facilities or anything else that it does for a citizen of the United States, there will be no discrimination as long as I can help it in private or public life based upon any such thing as color or creed or religion—never. Wherever funds are used, where Federal authority extends, there will be fairness. What I promise you is work, never-ending work, to make certain that justice is done.

The proposed antidiscrimination amendment to the recent military reserves bill would have been a ringing affirmation that our defense policies are based on the highest principle of American democracy—that all men are created equal. President Eisenhower opposed it. In fact, he accused those who would bar discrimination of jeopardizing

the Nation's defense and welfare. His criticism would have been more correctly directed at that minority in Congress who have abrogated to themselves a veto power over all legislation which involves provision for equality of treatment.

Insofar as the Congress is concerned, both the Democrats and the Republicans appear to be spellbound by the prodiscrimination, anti-civil-rights forces of the South. This constant fear of the southern bloc in Congress has paralyzed majority action. We urge the Members of Congress to rise up against this minority and restore the enactment of law by majority vote as provided for in the Constitution.

In speaking for ADA today I come fortified with a mandate from our 1955 national convention. The ADA has spoken out clearly on the issues before this committee and I quote the sections of the convention's adopted platform which are relevant to the measures before you:

Americans for Democratic Action reaffirms its dedication to the twin goals of freedom and security for all people.

We pledge ourselves to uncompromising defense of the inalienable rights of every American—freedom of speech, of thought, of inquiry and of dissent. We believe in equal rights and opportunities for all people, regardless of race or creed. We believe that the impairment of these liberties on any level, be it National, State, or local, violates the principles of democracy and saps the strength of a democratic society in its struggle against totalitarianism.

1. Any denial of equal rights to minorities threatens the rights of all our citizens and also our world leadership.

2. Our determination to make secure these rights must never cease so long as they are denied to a single human being. We therefore support legislation and administrative action on the Federal, State, and local level:

(*a*) To make secure the life, person, and property of every individual against violence and intimidation;

(*b*) To eliminate segregation and other forms of discrimination in housing, education, employment, transportation, recreation, government supported financing, the National Guard and other areas of life. To this end we urge that all Federal contributions to such programs be conditioned upon this principle;

(*c*) To broaden the coverage of existing civil rights laws and to insure the civil rights section of the Department of Justice, the status and appropriations required to enforce all such statutory and constitutional guaranties;

(*d*) To remove the poll tax and other disfranchising practices.

(*e*) We favor Federal legislation, with adequate enforcement power to insure employment opportunity for all.

There are about 45 bills before the committee. Some are of an omnibus nature and others take up specific parts of the civil rights program.

The bills can be grouped as follows:

1. Omnibus bills which include provisions for—
   (*a*) A Commission on Civil Rights.
   (*b*) A Civil Rights Division in the Department of Justice under the direction of an Assistant Attorney General.
   (*c*) Strengthened civil rights statutes.
   (*d*) Elimination of the poll tax.
   (*e*) Elimination of segregation in interstate transportation.
   (*f*) Making lynching a Federal crime.
   (*g*) Prohibiting discrimination in employment.
   (*h*) Barring discrimination and segregation in housing.
   (*i*) Barring discrimination and segregation in education.
2. Less complete omnibus bills.
3. Antilynching proposals.
4. Those which would strengthen existing civil rights statutes.

5. Those to establish a Commission on Civil Rights.

6. Those which would eliminate the poll tax and other disenfranchising devices.

7. Those which would establish a Civil Rights Division in the Department of Justice under the direction of an Assistant Attorney General.

8. New antipeonage, antislavery, and anti-involuntary servitude legislation.

ADA favors the prompt enactment of all of these bills or parts of the civil rights program. Obviously, some parts are more significant in their impact than others. In urging the enactment of each and every part of the civil rights program we would suggest that no one part is a substitute for another part. We recognize that if the Congress decides to act it will either take up an omnibus bill or take up the program one part at a time. We will support whatever measures come before Congress which are consistent with this program.

However, we would again point out that no one part of the program is a substitute for another part, nor is action on one part an excuse for inaction on another. A Civil Rights Commission which would make continuing studies and report on the status of civil rights in America must not be considered in any way as a substitute for Federal legislation barring discrimination in employment. Nor should the proposal barring segregation in interstate travel be considered as a substitute for legislation barring segregation in other areas where the Federal Government has jurisdiction.

In summary, Mr. Chairman:

ADA believes that a serious question of the good faith of the political parties, the President and the Members of Congress is raised by the failure to produce on civil-rights promises.

ADA believes that hearings and reports alone are no substitute for floor action on civil-rights measures.

ADA believes that civil-rights bills will become law whenever those who say they are for the legislation are determined to do battle for it.

ADA supports and will continue to support all of the civil-rights bills before your committee, but cautions against the political substitution of a bill dealing with one phase of the problem for a bill dealing with another phase.

ADA urges this committee and the 84th Congress to act promptly so that the voter in the 1956 elections will not be faced with a choice as to who can make the best promises but may look at the record and make the choice on the basis of who best performs on his promises.

Thank you very much.

Mr. LANE. In other words, in plain language, you say that these matters have been presented to this committee from time to time; that they have been investigated from time to time, and have been approved by both parties, the Democratic National Committee and the Republican National Committee, and with all kinds of reports and investigations, and in view of all these various bills that are before us today and with all of the testimony that has been taken and all of the information that has been brought out into the open and requests for corrective legislation for the injustices that exist in the various States, you feel that now instead of setting up a commission in the executive department, or a commission in the Department of Justice,

or a congressional commission, that, it itself, will not suffice, but that we should go further and bring out FEPC legislation and anti-lynching legislation, and that now is the time that something should be done, and not prolong it from time to time; that is your feeling?

Mr. GUNTHER. That is what I am saying, Mr. Chairman, that the hearings and reports are available; the arguments pretty much remain the same, and that the time for action is long past, and overdue, and we urge that it be speeded up as much as possible.

We recognize that the opposition is determined and well organized and has its group here in Congress but that the opponents to civil-rights legislation in Congress represent a small minority of the total membership and if those who have pledged action—the Republican platform—not just the Democrat platforms; the Democratic platform has a very, very strong plank on civil rights, and nothing can be done about it, but the Republicans, they are going around saying that they are for legislation. They promised it in their platform and their candidates went all over the United States pledging they would use every means possible to them, and a part of that is to ask the Congress to do something; and the only way to redeem that pledge is to get some action in Congress launched in both Houses.

But we believe that if the great majority of the Members of Congress who say they are for civil-rights legislation want to go ahead, and are willing to do battle, that this little minority who holds up Congress now on these matters can see that we will win, and we can do it this Congress, and we will not have to go back to the 1956 convention, like we did in 1952, winning the battle there, with the representatives in that convention, when each party knows that the people there are representing the people, and when they write that platform, they are writing in things which they know are popular, and we will not be going back asking them to do what is popular in the convention, when we know that they are not going to do anything once the election is over.

Mr. LANE. Do you know if the present administration has done anything?

Mr. GUNTHER. The present administration continued many of the programs that were instituted by President Truman, and they continued some of the court cases that were instituted under the previous administration; they have continued the Committee on Government Contracts employment—they have another name for it, but it is essentially the same.

Mr. LANE. They have not established any new program?

Mr. GUNTHER. No; President Eisenhower has established nothing new, and he has done a great deal of harm by saying that matters dealing with civil rights are extraneous to Congress. As was pointed out this morning, he has said—when someone proposed an antisegregation rider, where Federal funds are going to be spent, and that is what he was talking about, when he spoke to the people in Harlem—he said that wherever Federal taxes are collected and the money is spent, there will be no discrimination.

That is hypocrisy. The President is no more in favor of legislation wiping out the segregation and carrying out his pledges now than he was then. And I think that we ought to call the President's hand on this, and one way to do it is for the people in the Congress to bring out

some legislation out of this committee, bring it onto the floor and let the proponents of civil rights, the NAACP, the unions, the ADA, and others, go around to the President and say, "Mr. President, what are you going to do about this?"

We think one way, of course, is to get it out of the committee and have the President assist in breaking the log jam now, without waiting for the committee to act, because you are going to have to have Republican votes to get this through.

Mr. LANE. I am sure of that.

Mr. GUNTHER. Yes.

Mr. LANE. Thank you very much, Mr. Gunther, for your very helpful statement and the assistance you have given the committee.

Mr. GUNTHER. Thank you, Mr. Chairman.

Mr. LANE. The next witness is Mr. Aubrey E. Robinson, Jr., director, American Council on Human Rights.

STATEMENT OF AUBREY E. ROBINSON, JR., DIRECTOR, AMERICAN COUNCIL ON HUMAN RIGHTS

Mr. ROBINSON. Thank you, Mr. Chairman.

May I say that my statement is very brief and I will try to make it even more brief.

Mr. LANE. Thank you.

Mr. ROBINSON. In keeping with the chairman's request, that the meeting be speeded up.

I am Aubrey E. Robinson, Jr., executive director of the American Council on Human Rights, a cooperative social action program of national fraternities and sororities. Our organization is dedicated to the task of seeking the extension of fundamental human and civil rights to all who live in the United States and to secure equality of treatment and opportunity for all without discrimination and segregation because of race, religion, or national origin. Our organization has been privileged to testify on several previous occasions in hearings involving civil-rights bills and although it is to our great regret that some of those same bills are still unpassed we appreciate this opportunity to restate our views on these and others pending in this committee.

It is a great temptation for one in my position to vehemently denounce in an emotional tirade the perpetrators of racial bigotry, violence, intimidation, and treachery which still plague the American scene. One who has experienced these finds it difficult to stifle the emotions when discussing it even among persons of superior intellect and intelligence. I will say only that mob violence inspired and directed by hate merchants and aided and abetted by public officers is so basically abhorrent to the religious and democratic ideal that even one instance in a given year justifies enactment of a Federal anti-lynching statute. The right to freely engage in the selection of one's representatives in government is so fundamental in the concept of American democracy that arbitrarily disenfranchisement to any degree should and must be eliminated. The obvious evils and inequalities of racial segregation in education, housing, travel, and employment make it imperative that there be a Federal legislative mandate sounding its destruction for all time.

These things that I mention are not picayune or transitory, either to my organization and the racial minority with which it is most closely identified or to the Nation at large. To the Negro American deprivation of human and civil rights is a matter of daily experience which sorely tries his soul. To the Nation as a whole these deprivations and discriminations represent a cancer which unless removed will rot its core to a destruction just as final as that of atomic oblivion.

As America has moved into a position of leadership for the free world, the Congress of the United States has been called upon to grapple with and solve problems never before envisioned. It has met the challenge well because it has met the problems openly and with a dedicated purpose, the preservation of American democracy. We call upon this committee to meet the problems with which we are here concerned with the same honesty and sincerity of purpose. To that end we urge upon you to report out of this committee H. R. 389 and H. R. 3688, which are identical.

The bills present in concise terms the diagnosis and cure for the civil-rights ills of 16 million American citizens. Title I provides for the strengthening of machinery in the Federal Government by establishing a Commission on Civil Rights in the executive branch of the Government. Such a commission properly staffed would be most effective in the documentation of the facts concerning the status of civil rights. Reorganization of the civil-rights activities of the Department of Justice through the creation of a Civil Rights Division would provide staff personnel and emphasis for the development of more effective judicial machinery in the handling of civil-rights matters.

Title II of these bills goes to the very heart of the problem. The single principle which runs through each of its seven parts is the principle that the individual's rights to life, liberty, security, and the privileges of citizenship are to be enjoyed and protected without regard to his race, religion, or national origin. Of necessity that principle has been spelled out in certain crucial areas. This spelling out is necessary because it has been our experience that civil rights not clearly defined are held nonexistent insofar as Negro Americans are concerned.

Part I, amending existing civil-rights statutes to prevent injury, threats, oppression, or intimidation of one exercising his constitutional privileges is particularly important in view of the reaction of the diehard racists to the Supreme Court decision invalidating racial segregation in public education. One who obeys the Constitution of the United States and the laws of the land has a right to the protection of his Government, for without his compliance with that Constitution and those laws that very Government cannot exist.

Elimination of segregation in interstate travel is a responsibility of Congress under its constitutional power to regulate commerce between the States. It is a studied practice of discrimination and degradation completely out of keeping with executive and judicial pronouncements in other areas. It is an intolerable burden on interstate commerce and the cause of needless strife, violence, and abuse. And, as the previous testimony has indicated, members of my particular race have suffered all kinds of indignities, and if the committee had the time I could recount some of my own personal experiences and

when we speak with feeling and with apparent emotion, we are speaking of things that daily occur. And their elimination would be hailed by the vast majority of passengers and carriers alike on trains and buses and elsewhere.

Of all the discrimination practiced against Negro Americans none has a more profound effect upon our general welfare than the discrimination in employment. Without the opportunity to compete freely in the labor market, millions of otherwise qualified citizens are denied the means of earning a decent livelihood. This denial is directly responsible for the economic instability of a mass of people and is reflected in their health, morals, and general conditions of living. It makes of the free enterprise system a hollow mockery. So widespread is the practice of job discrimination that it is a matter of national concern. Part 5 of H. R. 389 and H. R. 3688 provides needed machinery for the beginning of the solution of the problem. We urge upon the committee your careful consideration of this provision as an integral part of the comprehensive approach to civil rights we firmly believe is needed.

Since the passage of the Housing Act of 1948 it is generally recognized that the Federal Government has a responsibility for improving the housing conditions of our people. The FHA mortgage insurance program has been an effective instrument in maintaining the high level of home construction and improvement which has been a boon to the construction industry. As administered, however, it has not provided free access to the housing market. The volume of new construction secured by resource of the Federal Government which has been made available to Negro Americans is infinitesimal. It is our view that no program of the Federal Government should be used to perpetrate or extend racial discrimination. Thus part 6 of the aforementioned bills is essential to make the Government-housing program that which it must be, a housing program in which all citizens participate freely and equally.

In its ultimate effect on the housing scene in America, the slum clearance and urban renewal program presents the greatest source of danger unless provisions are made to bar discriminatory use of Federal funds. Without such a provision new racial ghettoes will rise to replace the old and a vicious, never-ending circle of exploitation and deprivation will be fashioned. We call upon this committee to state in unequivocal words that it is the right of every citizen to have free access to the housing program of the Federal Government without discrimination or segregation because of his race, religion, or national origin. In this area as in the vital area of Federal aid to school construction, there should be a basic national policy that Federal funds shall be expended as racially indistinguishable for all citizens as it is collected without regard to racial distinctions from the taxes of the people.

Because we have firm conviction in the rightness of our position measured by every standard of morality and decency, we are forthright in our position in this matter of civil rights. We are not politicians, but neither are we oblivious to the ways of politicians. We know, however, that the politician's finest hour comes when his political acts are motivated by his highest sense of decency and fair play. This requires both courage and conviction. Nothing short of such a

display of courage and conviction will move these civil-rights measures out of this committee and on to the floor of the House. We believe and have faith that such courage and conviction is resident in this committee, and we await its display.

I thank the committee for the courtesy with which the chairman and the other members have listened to our testimony, with the additional statement that there is sincerity of purpose and good will resident in this committee.

I could add one other word, and it would be this, that we here have to transcend the political realities in a sense in order to really grasp what we are doing, when we are dealing with problems representing civil rights.

Part I of this omnibus bill is that I refer to our organization supporting indicates that——

Mr. LANE. That is H. R. 389?

Mr. ROBINSON. Yes, 389. Members of this committee have shown surprise in some of the statements that have been made with regard to incidents that are occurring daily.

The creation and establishment of the Civil Rights Commission with the authority and power and finances to bring the picture to bear and get the facts, I think would do more perhaps than anything else to fully convince even the nominally liberal members, of the committee that we do have here really a righteous cause if I may use that word. And we are vitally concerned with this, as I have indicated.

It is not something that happens infrequently; it is something which millions of American citizens live with daily.

I appreciate the opportunity of this hearing.

Mr. LANE. Thank you very much for your statement. And I want to express my gratification to you for this very careful statement you have made before the committee.

I wonder if you would mind telling me about how many members there are in your organization? You say it is an organization of Americans concerned with human rights. About how many members are there in your organization?

Mr. ROBINSON. We estimate, according to the latest census of our constituent organization, that we represent approximately 50,000 active fraternities and sororities.

Mr. LANE. And you are prepared to say that you are here representing some 50,000 people?

Mr. ROBINSON. Yes.

This is the American Council, working in a cooperative program; this is their social action program, and I think it is an interesting observation that is pertinent in view of the chairman's statement.

Mr. LANE. And the Washington organization speaks for that group?

Mr. ROBINSON. That is correct.

Mr. LANE. Thank you very much for your statement.

You have been very kind and patient to wait to be heard.

Mr. ROBINSON. I would like to add this further statement, that we are proud of the role that the fraternities and sororities are playing. As you so often hear, such organizations are criticized for not having a worthy purpose. And their forthright purpose in having such an organization is indicative of their feeling and of their responsibility

for having had the opportunity to get an education and we are working in labor organizations, and we have testified, and we have worked with other interested groups, and my membership extends to several other organizations.

We feel that we do have a real responsibility to be present and to present the story to the American people.

Mr. LANE. As the result of getting a good education, is the feeling of your members that you do want to work for the welfare of others?

Mr. ROBINSON. Oh, absolutely, and we do think we have a responsibility as a result of our educational opportunities.

Mr. LANE. Thank you very much, Mr. Robinson, for your appearance.

Mr. ROBINSON. Thank you.

Mr. LANE. Is Mr. Patrick Murphy Malin, executive director of the American Civil Liberties Union of New York, present?

(No response.)

Mr. LANE. Has he submitted a statement, Mr. Counsel?

Mr. BRODEN. He plans to submit a statement as I understand it, Mr. Chairman.

Mr. LANE. All right, in view of the fact that Mr. Malin is not present at this time, I assume he will submit a statement.

STATEMENT OF W. ASTOR KIRK, CHAIRMAN OF THE DEPARTMENT OF GOVERNMENT, HUSTON-TILLATSON COLLEGE, AUSTIN, TEX.

Mr. LANE. The next witness is Mr. W. Astor Kirk, of Washington.

Mr. KIRK. Mr. Chairman, I do not have a prepared statement.

Mr. LANE. We will be glad to hear you, Mr. Kirk.

Mr. KIRK. Mr. Chairman, my name is W. Astor Kirk, and I am appearing as a private witness. I am professor of government and chairman of the department of government, at Huston-Tillatson College, at Austin, Tex.

Mr. LANE. Did you come all the way from there today?

Mr. KIRK. No, I have been here in Washington on a study project. I am one of the 10 internes selected by the American Political Science Association to study Congress and the legislative process.

I have been here on leave since November, and I will be returning at the end of this week, so I do want to express my deep appreciation for the opportunity to appear before this committee and to make some observations on the general problem that confronts the committee at this time.

I shall endeavor to be rather brief, and I do not want to repeat testimony which has already been given.

I would just like to point out that I would also emphasize the fact that it is important that we meet the questions involved in the field of civil rights and human rights.

I come from the southern area. I was born and reared in the South. I am still working there, and I felt that I had a responsibility to go back and to try to provide some intelligent leadership in those communities where this kind of a problem presents itself.

Oftentimes it is said that Negroes in the South are perhaps satisfied with their status and that everything would be all right if we did not have this agitation on the part of northern agitators, as it is com-

monly put in the press, but I would like to advise the committee that that certainly is not the case.

The people that I know are very vitally concerned about this whole problem, and they hope that the Congress will, in the near future, make some kind of gains in this field.

I feel personally that Congress has a responsibility. It has been brought out in previous testimony that the executive branch has made some gains in this field over the past decade, and the judicial branch has taken a more enlightened view on the privileges and the immunities of American citizens, and that they have made some gains. I think Congress has a responsibility too.

First of all it has the responsibility to see to it that its own action will not contradict the intelligent social engineering carried on in the executive and the judicial branches, and, secondly, I think it has the responsibility to supplement what has been done there. When you come to this kind of an issue, Mr. Chairman, various questions arise, and I would like to briefly address myself to about three of those questions which have not been touched upon this morning, or have been touched upon in an indirect manner only.

One of them is the States' rights issue.

As a teacher and as a student of government I do not think that there is anyone who is more devoted to the principle of State and local responsibility and State and local initiative than I am. But I must insist that where you are attaching to questions the principles of State's rights and State responsibility many times that means that the local communities are not going to take any action at all. Those who always raise the question of States' rights, as the honorable member from Georgia on this subcommittee did this morning, neglect to realize that if you do not want Federal action, then the best thing to do is to correct the situation locally, correct the situation on the State level. I fear that is not being done.

Secondly, in this whole field, I do not think that the issue of States' rights has any relevancy at all, unless someone is prepared to argue that the Congress is about to follow a course that is unconstitutional. In other words, I am suggesting that the States' rights issue is not relevant, unless a constitutional issue is involved.

I do not think anyone could say that the Congress of the United States does not have the constitutional power to regulate interstate commerce and thereby prohibit discrimination in interstate commerce.

I do not think anyone at this late date in the 20th century, with all of the judicial decisions we have had, would argue that Congress does not have the right to use its taxing and spending power in such a way as to further the general policy of the Nation, and so I do not think the States' rights issue is relevant here.

Another aspect of this, however, is that oftentimes you get paralysis at the local level because of the pattern of political, social, and economic power that exists. That has been demonstrated all through the testimony today that when you get paralysis at the local level that it is not possible to secure action there, and that the only way to get some relief is to have an outside force make an impact upon the local community, and in this whole field of civil rights I think that is what is needed.

Mr. LANE. We would not have these situations if the local authorities and the State authorities took care of these situations in their own home districts.

Mr. KIRK. That is very true.

Mr. LANE. Because of the fact that the people cannot get the desired relief through local officials, as you say, due to local politics, or personalities, or something else that might come into it, they have to come to a higher tribunal to seek help.

Mr. KIRK. That is true, that is exactly true, Mr. Chairman. We have to break that paralysis at the local level, and I think the only way to do it is to have some impact coming in from the outside on the community.

I have been very active in a number of efforts, and I believe we ought to have some reform at the local level. It has been very obvious over the years that that reform is not going to be possible because of the existing power relationships at the local level until you get some action from the outside.

There are many people at the local level in a number of communities, such as Georgia, Mississippi, and Alabama, who would welcome outside action because they are law-abiding people, and if the Congress of the United States passed a law they would abide by the law, but they do not feel that they can afford to take the lead in trying to get something done, because it just is not politically practical, it is not politically expedient for them to do it.

Mr. LANE. They just take the way of least resistance.

Mr. KIRK. That is right.

The final thing I want to mention in this connection is that some comment in testimony has been given to the effect that this is a problem for the liberal Members of Congress, and I share that view.

I would like, however, to indicate that in this whole field that what you are doing in trying to get through civil-rights legislation is that you are trying to get through legislation which would change the existing balance of power—social, economic, and political power.

There are many individuals who have a vested interest in maintaining the status quo, and some of your resistance comes because those people feel that if Negroes and other minority groups are permitted to vote freely, let us say, and to exercise all the other rights and privileges to which they are entitled, the political consequence of that would be that that would tend in the liberal direction. Hence, the people who now enjoy power in those local communities would no longer be in positions of power, and they resist because they realize that you are striking at the base of their own present political position.

That is true in my own State of Texas.

I am associated with the so-called loyal Democrats of that State, and we have been working very hard, at least, to get what we call real Democrats elected to office on the State level, and real Democrats elected to office on the national level.

Mr. LANE. There are a lot of loyal Democrats in Texas.

Mr. KIRK. That is true, but we are convinced that those entrenched and vested interests realize that we are striking at the base of their power, and their opposition is, in some instances, not racial at all, but it is economical and political, so I think the committee would want to keep that kind of consideration in mind.

Now, I would finally like to endorse, or suggest that it is best for the committee to consider this omnibus approach, the so-called Powell bill and the bills introduced by the other two Congressmen that would embody a comprehensive approach to the solution of these problems, and I think that approach may lead to legislative action much more readily than the piecemeal approach. I would suggest that the committee seriously consider that as the most expedient approach.

Again, I want to thank the committee and the chairman for the privilege of appearing before you as a private witness. It is not very often that people who are located as far away from the seat of government as I am get the opportunity to appear before committees of Congress to present their views, so I certainly do thank you for the privilege of appearing before the committee.

Mr. LANE. May I say to you, Mr. Kirk, as a member of the House Committee on the Judiciary, that you are always welcome to come and speak before our committee at anytime, that you have that privilege any time you want it.

Mr. KIRK. Thank you. It is a problem of distance, Mr. Chairman. It is not possible for us to get to Washington very frequently.

Mr. LANE. Thank you, Mr. Kirk.

At this point I would like to submit for the record the statement of the American Jewish Committee.

(The matter referred to is as follows:)

STATEMENT OF THE AMERICAN JEWISH COMMITTEE

The American Jewish Committee was organized in 1906 and incorporated by special act of the Legislature of the State of New York. Its charter states:

"The objects of this corporation shall be to prevent the infraction of the civil and religious rights of Jews in any part of the world; to render all lawful assistance and to take appropriate remedial action in the event of threatened or actual invasion or restriction of such rights, or of unfavorable discrimination with respect thereto * * *."

For almost 50 years, it has been a fundamental tenet of the American Jewish Committee that the welfare and security of Jews are inseparably linked to the welfare and security of all Americans, whatever their racial, religious, or ethnic background may be. We believe that an invasion of the civil rights of any group threatens the safety and well-being of all groups in our land. Hence we are vitally concerned with the preservation of constitutional safeguards for all.

But constitutional guaranties, historical documents, and basic traditions, wonderful though they be, only establish the principles to which we Americans are dedicated. It still takes people to put these principles into practice and keep them alive. And because there are always some people who are slow or unwilling to do what is right, it also takes laws to make people act as they should.

Many States and cities have adopted laws during the past decade to make certain that their residents enjoy the rights which belong to all Americans.

Fourteen States have outlawed racial and religious discrimination in employment, to make sure that qualified workers have an equal chance for jobs.

Three States have forbidden bias in admission to college and professional schools, to give promising young people an equal chance for education.

Some three dozen cities have enacted ordinances requiring equal treatment in public and publicly assisted housing, to prevent unfair racial segregation and discrimination.

There are also State and city laws in many parts of our country barring racial or religious discrimination in parks, playgrounds, restaurants, hotels, and other places of public accommodation, resort, or amusement.

But while State and local laws insure equality of treatment and opportunity for millions of Americans, many additional millions are without this protection—or can lose it simply by moving from one city or State to another. Only Congress

can adopt nationwide laws, and Congress has failed to enact a single civil-rights measure in the past 80 years.

Some 51 bills are before this subcommittee for consideration. In general, all of these bills, with or without modifications, have been considered by committees of both Houses of the Congress for the past 10 years at least. In fact, the American Jewish Committee, like other organizations that have supported the expansion of civil rights, has testified on numerous occasions before various committees and subcommittees of the Congress and executive commissions, in favor of the enactment of civil-rights measures.

On March 14, 1945, Mr. Marcus Cohn, Washington counsel of the American Jewish Committee, appeared before a subcommittee of the Senate Committee on Education and Labor, in support of S. 101, which would have established a permanent fair employment practice committee with enforcement powers.

On May 1, 1947, Dr. John Slawson, executive vice president of the American Jewish Committee, proposed to the President's Committee on Civil Rights a comprehensive program including the following recommendations:

(1) Expansion of the Civil Rights Section of the Department of Justice.

(2) Enactment of a Federal anti-poll-tax bill.

(3) Enactment of a Federal antilynch bill.

(4) Enactment of a Federal fair employment practice law with enforcement machinery.

(5) Establishment of a Federal Commission on Civil Rights to serve in an advisory capacity to the President and other Government officials.

(6) Enactment of Federal legislation barring discrimination in educational institutions which receive public funds.

(7) Organization of a Government educational program, through various Federal agencies, to promote civil rights and combat prejudice.

On June 13, 1947, Mr. Ben Herzberg, chairman of our legal and civil affairs committee, testified before a subcommittee of the Senate Committee on Labor and Public Welfare in favor of S. 984, a bill to establish a permanent fair employment practice committee with enforcement powers.

On April 25, 1949, Col. Harold Riegelman, American Jewish Committee vice president, appeared before the President's Committee on Equality of Treatment and Opportunity in the Armed Forces in support of total and speedy elimination of segregation in the services.

On May 12, 1949, Mr. George J. Mintzer testified on behalf of the American Jewish Committee before a Subcommittee on Elections of the House Committee on Administration, to urge the enactment of H. R. 3199, a bill to abolish the poll tax.

On May 25, 1949, as chairman of our executive committee, I testified before a special subcommittee of the House Committee on Education and Labor and urged the enactment of an effective fair employment practice law.

On October 3, 1951, I appeared before the Senate Committee on Rules and Administration in favor of Senate Resolution 105, a bill to give the Senate realistic power to invoke cloture.

Again, on April 18, 1952, I testified before the Subcommittee on Labor and Labor-Management Relations of the Senate Committee on Labor and Public Welfare, urging the enactment of effective legislation to prohibit racial and religious discrimination in employment.

On January 27, 1954, Mr. Nathaniel H. Goodrich, Washington counsel of the American Jewish Committee, testified before the Subcommittee on Civil Rights of the Senate Judiciary Committee, in support of S. 1, a proposal to establish a permanent commission to promote respect for civil rights.

On February 24, 1954, Justice Meier Steinbrink testified before the Subcommittee on Civil Rights of the Senate Committee on Labor and Public Welfare, on behalf of both the American Jewish Committee and the Anti-Defamation League, urging the adoption of S. 692, a bill to prohibit racial and religious discrimination in employment.

For years both major political parties have promised to adopt Federal civil-rights legislation.

"This right of equal opportunity to work and to advance in life should never be limited on any individual because of race, religion, color, or country of origin. We favor the enactment and just enforcement of such Federal legislation as may be necessary to maintain this right at all times in every part of this Republic"—Republican Party platform, 1948.

"We call upon the Congress to support our President in guaranteeing these basic and fundamental rights: (1) The right of full and equal political partici-

pation, (2) the right of equal opportunity of employment, (3) the right of security of person, (4) and the right of equal treatment in the service and defense of our Nation"—Democratic Party platform, 1948.

"We shall continue to sponsor legislation to protect the rights of minorities"—Republican National Resolutions Committee, 1950.

"We again state our belief that racial and religious minorities must have the right to live, the right to work, the right to vote, the full and equal protection of the laws, on a basis of equality with all citizens as guaranteed by the Constitution."—Democratic national resolutions committee, 1950.

"We believe that the Federal Government should take supplemental action within its constitutional jurisdiction to oppose discrimination against race, religion or national origin."—Republican Party platform, 1952.

"We favor Federal legislation effectively to secure thees rights to everyone: (1) The right to equal opportunity for employment; (2) the right to security of persons; (3) the right to full and equal participation in the Nation's political life, free from arbitrary restraints. We also favor legislation to perfect existing Federal civil-rights statutes and to strengthen the administrative machinery for the protection of civil rights."—Democratic Party platform, 1952.

The American Jewish Committee believes the enactment of Federal civil-rights legislation is long overdue. We think the Congress should enact a comprehensive program—

To protect the right to equality of opportunity in employment;

To set up a commission to evaluate the status of our civil rights and to report periodically to the Congress and the executive branch of the Government;

To raise the stature of the Civil Rights Section of the Department of Justice to a division, under the supervision of an Assistant Attorney General, staffed and capable of stepping in to protect the civil rights of citizens when they are threatened;

To strengthen the Federal civil-rights statutes to permit the invocation of Federal jurisdiction whenever citizens are threatened or molested by State or municipal officials for asserting their constitutional or civil rights;

To abolish the poll tax as a prerequisite for voting for Federal officeholders,

To punish anyone who attempts to interfere with a citizen seeking to exercise his right to vote for Federal officials, whether in primary or general elections,

To outlaw racial segregation in interstate transportation and in all other areas subject to Federal regulation or jurisdiction;

To make lynching a Federal offense.

Congressional committees have repeatedly held hearings and issued reports on many facets of this comprehensive civil-rights program. Occasionally the House has passed one or another of the bills introduced to put this program into effect But the Congress as a whole has failed to act favorably on any of the civil-rights measures presented to it in 80 years.

The American Jewish Committee believes it is time that Federal civil-rights legislation moved beyond the stage of committee hearings and reports. We express no preference or order of priority among the various civil-rights issues before the Congress. We believe the Congress should deal with all of them—thereby bringing our practices and conduct into conformity with our basic principles and constitutional guaranties.

IRVING M. ENGEL, *President.*

Mr. LANE. I would like to submit for the record, also, the statement of Mr. Mike Masaoka, who represents the Japanese American Citizens League, of Washington and, of course, the west coast.

(The statement referred to is as follows:)

JAPANESE AMERICAN CITIZENS LEAGUE,
Washington 6, D. C., July 15, 1955.

Hon. THOMAS J. LANE,
Chairman, Subcommittee on Civil Rights,
Committee on the Judiciary,
House of Representatives, Washington 25, D. C.

DEAR CONGRESSMAN LANE: It is our understanding that your subcommittee is presently considering some 53 bills, most of which are identical in purpose and language, which relate to the civil rights of all of our citizens.

Although we have testified in previous Congresses before both House and Senate subcommittees which have had this same subject under consideration, we are not at this time requesting an opportunity to be heard on this vital matter of promoting the civil rights of all Americans, because we are confident that others more expert and eloquent than we have and will present facts and arguments to demonstrate the immediate need for this legislation.

We do want, however, to make it emphatically clear that we approve and endorse any legislation that will enlarge the area of human dignity and open new opportunities for all of our millions of citizens, regardless of race, color, creed, or national origin.

As Americans of Japanese ancestry who have experienced, especially during World War II, racial discrimination in many of its most sordid expressions, legal as well as otherwise, we can and do appreciate the subtle as well as more obvious aspects of prejudice which restricts, humiliates, and persecutes some of our fellow Americans of other races, creeds, colors, and national origins.

This is not meant to suggest that we Americans of Japanese ancestry are no longer subjected to racial antipathies. Though our present status as a nationality and minority group in the United States is considerably better that it ever has been, nevertheless we still meet with racial prejudice in various matters, particularly in housing.

We urge, therefore, as a matter of our national self-interest, that appropriate legislation be enacted immediately to repeal all statutes which provide legal sanction for continued bigotry and to approve administrative and other means to better assure the elimination of racial and religious discrimination from our national life.

As the only national organization of Americans of Japanese ancestry, indeed of Asians, in this country, we are privileged to associate ourselves at this time with our fellow Americans of good will, of all nationalities and religions, in urging immediate enactment of needed civil-rights legislation.

Many of our members know, from personal observation in Japan and Asia, where many served in our Armed Forces in World War II and in the recent Korean hostilities, and while on business and pleasure trips to the Orient, that one of the most embarrassing and difficult questions which is asked too often relates to our regard for our fellow Americans of another color or ancestry or religion.

To these peoples of free Asia, who comprise more than a third of the world's population, this matter of equality in and under the law is a most serious one, for they are numbered among the colored peoples and few embrace Christianity.

To them, the yardstick by which our sincerity of purpose and regard for all peoples is our treatment of our citizens who are believers in Christianity. In our regard for these of our citizens is measured our qualification for leadership of the free world.

Though the international implications of our racial prejudices are very grave, even more important to us as individual Americans is the inevitable conclusion that so long as any individual suffers mistreatment because of his antecedents or method of worship, that long are the freedoms, liberties, and opportunities of all Americans in jeopardy. To strengthen our own civil rights, we must protect and defend the civil rights of all.

Moreover, there are economic, social, and cultural advantages in a society of free and equal men. Conversely, racial and religious discrimination rob our Nation of these economic, social, and cultural benefits by humiliating and hamstringing many who could contribute much to the real wealth of our country.

During the past several decades, the courts and the executive have done much to strike down the specter of racial discrimination in our national existence, thereby advancing greatly the civil rights of us all. But the Congress, during this same period, has demonstrated a reluctance to deal with this problem; as a matter of fact, with few exceptions, the judiciary and the executive have been responsible for all the gains made, and some are of a momentous nature, in this field of human rights.

The time has now come when the legislative branch should join with the judiciary and the executive in making more real the American dream of equal rights and opportunities for all without respect to ancestry or religion or color.

The Congress can, and should, enact appropriate enabling legislation which will expand and extend the power and the authority of the courts and the execu-

tive to make secure the civil and human rights of all of our citizens. In this manner will the Congress promote the general welfare of our Nation.

Sincerely,

MIKE M. MASAOKA,
Washington Representative.

Mr. BRODEN. Then, Mr. Chairman, we have a request that the statement of the National Community Relations Advisory Council be submitted for inclusion in the transcript of the record.

Mr. LANE. If there is no objection, the statement will be included at this point in the record.

(The statement referred to is as follows:)

STATEMENT OF THE NATIONAL COMMUNITY RELATIONS ADVISORY COUNCIL ON PENDING CIVIL RIGHTS BILLS

This statement represents the combined and joint views of the constituent organizations of the National Community Relations Advisory Council, coordinating and joint-policy-forming agency of national congregational bodies representing the conservative, orthodox, and reform movements of American Judaism and Jewish community relations organizations, national and local. All these constituent organizations are engaged in programs to foster interreligious and interracial amity in furtherance of the principle that all men are to be dealt with justly and equally in total disregard of race, creed, religion, and ancestory.

The organizations affiliated in the National Community Relations Advisory Council are:

NATIONAL ORGANIZATIONS

American Jewish Congress
Jewish Labor Committee
Jewish War Veterans of the U. S. A.
Union of American Hebrew Congregations
Union of Orthordox Jewish Congregations of America
United Synagogue of America

LOCAL, STATE, AND REGIONAL COUNCILS

Jewish Welfare Fund of Akron
Jewish Communit Relations Council for Alameda and Contra Costa Counties, Calif.
Baltimore Jewish Council
Jewish Community Council of Metropolitan Boston
Jewish Communit Council, Bridgeport, Conn.
Brooklyn Jewish Community Council
Community Relations Committee of the Jewish Federation of Camden County, N. J.
Cincinnati Jewish Community Council
Jewish Community Federation, Cleveland, Ohio
Connecticut Jewish Community Relations Council
Jewish Federation of Delaware
Detroit Jewish Community Council
Elizabeth Jewish Community Council
Jewish Community Council of Essex County, N. J.
Community Relations Committee of the Hartford Jewish Federation
Indiana Jewish Community Relations Council
Indianapolis Jewish Community Relations Council
Community Relations Bureau of the Jewish Federation and Council of Greater Kansas City
Community Relations Committee of the Los Angeles Jewish Community Council
Milwaukee Jewish Council
Minnesota Jewish Council
New Haven Jewish Community Council
Norfolk Jewish Community Council
Philadelphia Jewish Community Relations Council
Pittsburgh Jewish Community Relations Council
Rochester Jewish Community Council

Jewish Community Relations Council of St. Louis
Community Relations Council of San Diego
San Francisco Jewish Community Relations Council
Southwestern Jewish Community Relations Council
Jewish Community Council of Toledo
Jewish Community Council of Greater Washington
Jewish Community Relations Council of the Jewish Federation of Youngstown

We have, on many previous occasions, expressed ourselves in favor of the principles of most of the civil-rights bills now being considered by this committee. We have submitted statements and testified orally in support of such bills. So, too, have many other organizations with similar aims and purposes. We think, therefore, that little would be gained by a repetition of the views we have so often expressed in the past.

Our purpose in presenting this statement is merely to emphasize our view that there have been more than adequate deliberation and consideration of bills seeking to secure equality for all racial and religious groups in our country. There have been sufficient hearings at which all possible aspects of the problem have been considered thoroughly and all varying views been given opportunity for expression. We believe strongly that further hearings would serve no useful purpose and will add nothing to the knowledge now in the possession of the Members of the House of Representatives. We believe strongly that the time has long since passed for action rather than further deliberation on these measures.

We do not wish to express any view as to priorities among the bills. We think that in principle, all should be enacted. We believe that the bills seeking to prove existing civil-rights laws are long overdue. The enactment of an enforcible fair-employment practices act, the establishment of a national commission on civil rights, the creation of a civil-rights division in the Department of Justice, the outlawing of lynching, the strengthening of the antipeonage laws, the protection of the right to vote without discrimination on racial and religious grounds, all these measures have been endorsed time and time again by civil-rights organizations and all other organizations concerned with the preservation and extension of American democratic concepts.

We, therefore, urge this committee to report favorably these measures to the floor of the House of Representatives so that immediate action may be taken upon them at this session of the Congress and thus begin to bring an end to that long period since 1875 in which no Federal civil rights has been enacted.

Respectfully submitted.

BERNARD H. TRAGER, *Chairman.*

Mr. LANE. We have also statements by the National Lawyers Guild, National Council of Jewish Women, Inc., Women's International League for Peace and Freedom, and the American Civil Liberties Union. Without objection, these statements will be made a part of the record.

(The statements referred to are as follows:)

NATIONAL LAWYERS GUILD,
New York 5, N. Y., July 27, 1955.

Hon. THOMAS J. LANE,
Chairman, Subcommittee No. 2,
House Judiciary Committee,
Washington, D. C.

DEAR REPRESENTATIVE LANE: You are presently considering a large number of pending bills designed to eliminate in whole or in part the practice, or sanctioning, by national or local governments of discrimination or segregation on racial grounds. The National Lawyers Guild, which has pledged its full effort to secure a comprehensive civil-rights statute and which drafted the model civil-rights bill, urges you to report favorably upon one of the pending comprehensive bills, such as H. R. 389 introduced by Representative Adam Clayton Powell, or H. R. 3688, introduced by Representative Barratt O'Hara in this session of the 84th Congress.

The time for enactment of a comprehensive civil-rights law was never more propitious than it is today. The groundwork for its public acceptance has been

laid by the Supreme Court decision declaring segregation in public schools to be discriminatory and unconstitutional. This decision went a long way toward reestablishing, as a matter of law and public conscience, the equal-protection clause of the 14th amendment and did much to give substance and content in this area to the due process clause of the 5th amendment.

The decision provides a clear constitutional basis for eliminating segregation not only in the schools, but in all other areas of segregation imposed or sanctioned by any government.

For some years now the comprehensive bill, and many individual bills such as are now before you dealing with each phase of the problem, have been introduced. And each year a larger number appear, with wider and wider sponsorship. As Senator Ives noted, in reporting on a fair employment practices bill in the last session of Congress:

"Open opposition to legislation of this type appears to have abated substantially in recent years. During the hearings on this bill, which lasted some 6 days, no witness appeared in opposition to the bill nor was there any statement submitted by any person or group in opposition to it."

Opposition today takes the form of delaying and frustrating action—of inaction, pure and simple. It takes the form of argument that while the result to be accomplished may be desirable, it should not be done now, or not in this way, or not by this governmental authority, or not with any real sanctions. Apart from the dwindling outbursts of open bigotry, the only form of open opposition today urges that one cannot legislate prejudice out of existence and that love of one's neighbor is born of understanding and true tolerance and cannot be engrafted through laws and regulations. To this argument the answer is simple: laws are not themselves a solution, but they are a way of solving One can study the laws of any society, modern or primitive, to discover not so much how the people live as how, truly, they feel they should live. To enact a comprehensive civil-rights law may not be to accomplish overnight the elimination of prejudice and discrimination, but it will be a healthy sign of moral progress in America.

And although the first Supreme Court decision did no more than express a basic principle, yet, the expression of principle alone served, in advance of the mandate, to alter in very meaningful ways, the mores and conduct of a great many people in many States To preserve the gains thus made, and to carry forward upon the impetus thus furnished, a strong expression is needed from the lawmaking body—the enactment of a comprehensive statute (or series of individual statutes) specific in its prohibitions and clear in its intended scope. It must be a criminal statute with all the clarity demanded of criminal statutes, and it must have specific penalties to crystallize the new and growing moral standards of this country For the law contains penalties not solely as a measure of punishment to be inflicted on its violators, but also as a measure of the severity with which society looks upon the transgressor It is our way of knowing that the community hates kidnaping more than passing a red light. And this is why so many have the feeling that a law without "teeth" expresses a moral principle which nobody believes in very firmly.

On behalf of the National Lawyers Guild I urge you to report favorably on a comprehensive civil-rights bill (or its separate component parts). I enclose additional copies of this letter for the information of your subcommittee members and ask that this letter be made part of the record of your hearings.

Sincerely yours,

JESSICA DAVIDSON, *Secretary.*

STATEMENT SUBMITTED BY NATIONAL COUNCIL OF JEWISH WOMEN, INC., NEW YORK, N. Y.

The National Council of Jewish Women, which was established in 1893, and now has a membership of over 100,000 throughout the United States, has been dedicated to the promotion of human rights since its inception.

The delegates to our last biennial convention, held in New Orleans, La., in March of 1955, adopted the following resolution:

"HUMAN RIGHTS AND DEMOCRACY

"The National Council of Jewish Women believes that all American citizens, regardless of national origin, should be guaranteed the right to safety and security of person, to freedom of conscience and expression, and to equality of oppor-

tunity, without discrimination as to race, sex, or creed, as set forth in the Declaration of Independence and the Bill of Rights.

"The National Council of Jewish Women reaffirms its abiding faith in the principles of democracy and its unalterable opposition to all forms of totalitarianism and authoritarianism which would suppress individual rights or destroy groups of people in any part of the world: It therefore

"*Resolves:*

"1. To support legislative measures and administrative rulings—

"(*a*) to extend opportunities for free expression and to safeguard the rights and freedom of all;

"(*b*) to extend full civil and economic rights to all without discrimination or segregation.

"2. To support interfaith, interracial, and intercultural programs.

"3. To work for the strengthening of State and local laws against lynching, and support legislation which will make participation in lynching a Federal felony, and will provide for the prosecution of local officials who fail to protect persons from lynching or willfully fail to apprehend participants.

"4. To exert renewed efforts toward the repeal of discriminatory legislation and discontinuance of practices abridging the right of any citizen of proper age and residence to vote."

For the past decade or so the National Council of Jewish Women, its local sections and individual members, have expressed themselves in support of civil-rights proposals which are under consideration by various committees of Congress. The above-quoted resolution indicates the continued interest of our organization in measures which are necessary to provide equal citizenship for all Americans.

While much has happened during the past decade, congressional action in the field of civil rights is now more urgent than ever. The United States is now the leader of the free world. The Congress of the United States appropriates annually millions of dollars for the purpose of winning friends and influencing peoples abroad. How effective can this program be with the uncommitted people in parts of the world where we are now engaged in a struggle for the minds of men? Our failure to bring our practices and conduct into conformity with our basic principles and constitutional guaranties are the strongest weapon in the hands of our enemies who are trying to undermine our position in the world.

We are hopeful that the large number of bills pending before your committee and the hearings now being held are an indication the one branch of Congress—the House of Representatives—is cognizant of the urgent need for action in this field. It is the firm belief of our members that Congress should adopt a comprehensive civil-rights program and that such action is long overdue.

We are not commenting on specific bills before your committee because the proposals embodied in them have been before congressional committees for a number of years and we have testified in favor of the enactment of such legislation. The problems have been studied now exhaustively by Congress and there should be sufficient information to do more than merely hold hearings and issue reports. We therefore hope that all Members of Congress will do everything within their power to help enact a comprehensive civil-rights program in the 84th Congress.

STATEMENT IN SUPPORT OF CIVIL RIGHTS LEGISLATION SUBMITTED BY THE UNITED STATES SECTION OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, WASHINGTON, D. C.

The Women's International League for Peace and Freedom was founded in 1915 by Jane Addams of Hull House and is an international, interfaith, and interracial organization whose aim is to establish by democratic methods those political, economic, and psychological conditions which will assure the inherent rights of man and bring peace among the nations.

The most difficult problem in American life today remains—the problem of securing for the Negro his rightful status as a first-class citizen. Segregation, the badge of inferiority which America imposes upon the Negro, still is with us. It is the most widespread of all discriminations against the Negro. It does not deny the Negro his rights—it simply limits what it permits. But it is not the only form of discrimination; for, in parts of the United States today the Negro can still be denied altogether the right to work, to eat, to sleep, even

to be buried. This inferior status imposed by the white man upon the Negro, has left deep, festering sores on the character and social order of the whole American people. It has irreparably damaged our chances for creative leadership in world affairs. Progress has been made toward ending racial discrimination in America, particularly in winning court reversal of many of the legal bulwarks of segregation. But the end of discrimination is nowhere accomplished. The inequalities bred by discrimination and segregation remain so widespread, so deeply a part of our culture, that years of enlightenment and litigation will be needed to surmount them. Exacting though the job may be, there is no alternative to our common goal of equality and justice for each American.

It has been a source of real concern on the part of the Women's International League for Peace and Freedom that the many civil-rights measures introduced in both the House and Senate at each session of Congress have not had sufficient consideration to enact them into law. We believe that this is a serious dereliction of duty in view of our basic faith in the ideals of our American democracy.

The Women's International League for Peace and Freedom wishes to go on record as supporting the following civil-rights legislation:

1. For the establishment of a Commission on Civil Rights in the executive branch; a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, all for the purpose of strengthening criminal laws protecting civil rights;
2. For the elimination of segregation in interstate transportation;
3. For the barring of discrimination in housing;
4. For the abolition of the poll tax;
5. For an antilynching law;
6. For the strengthening of Federal laws relating to convict labor, peonage, slavery, and involuntary servitude;
7. For the strengthening of existing Federal civil-rights laws;
8. For the prohibition of discrimination in employment.

Since our organization believes that the enactment of an effective FEPC is one of the most important next steps in civil-rights legislation, we wish to expand our reasons for this.

The basic reason for the enactment of an effective Federal FEPC is to guarantee to everyone a human right—the right of a properly qualified person to equality of employment opportunity regardless of his race, religion, color, national origin or ancestry. Because this right [to equality of employment] is now denied to many of our citizens, we fail in our task to fully promote the public welfare.

Denial of equality of employment opportunity means in practical terms: substandard housing, low purchasing power, less cultural and educational advantages, improper sustenance with its accompanying poor health, low morals, crime and delinquency. Denial of the use of great resources of manpower in an industrial society means that the general economy suffers; in economic terms, job discrimination is a major budget item which we cannot afford. Frustration of a person's or group's ambitions and hopes to contribute to the common good, intensifies group tensions, industrial strife, and individual conflicts. We try to meet the results of our job discrimination through relief, health, welfare, police, and corrective services. How much wiser it would be for us all if we were to remove the causes rather than to treat the results. In a country whose citizens are of differing faiths, races, and ancestry, we are obligated to do all we can to prevent acts of job discrimination because they cause grave injury to the economic, social, and political welfare of the state The executive branch has in recent years recognized its responsibility in this area; the Supreme Court decisions have taken into consideration these facts. It is time for the Congress to move out from its neutrality on this and other civil-rights issues—for "neutrality" is actually a way of supporting the status quo and perpetuating job and other discriminations.

When the Federal Government denies protection for a human right and thereby endangers our general welfare, we seriously threaten the peace and freedom we seek with the rest of mankind.

Subversiveness is not solely the work of a political group—there is also the subversiveness of an economic group. This economic subversiveness is job discrimination which attempts to split Americans into competing groups—white, Negro, Catholic and Protestant and Jew, Italian and Chinese and German. This is an unacknowledged disloyalty to our country and to the cause of world peace and freedom—to disunify Americans who less than 200 years ago bound them-

selves together with their differences to demonstrate to the world a working democracy dedicated to freedom and equality.

Whether through colonialism, imperialism, satellitism, or totalitarianism in its varied forms, these are times when individuals in vast sections of the world are subordinated to the interests of the state. One of the most far reaching effects of the enactment of civil-rights legislation would be to illustrate to men everywhere that we in the United States intend to continue to insist upon the dignity of the individual. This is our unique and distinct contribution to a world torn by conflicting ideologies concerning the individual and the state.

Do not our human relations within the United States determine the nature and affect the outcome of our relations with the peoples and governments of other lands? We are all aware of the criticism which has been directed toward the United States from a world which is two-thirds nonwhite, regarding our own treatment of minorities within our country. Would we not strengthen our moral position of world leadership for peace and freedom by acknowledging job discrimination which still exists in our land and by taking vigorous and courageous action to eliminate it?

Finally, must we not enact a Federal FEPC as part of the fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

Here are two typical questions raised by those who oppose a Federal FEPC and some suggested answers:

"Doesn't FEPC interfere with an employer's right to choose his own workers?"

(*a*) FEPC does not interfere with an employer's rights; it prevents him from denying the worker's rights. The employer is not forced to hire or discharge anyone; he is rather prevented from refusing to employ qualified persons because of their race, religion, color, national origin, or ancestry. (*b*) Every freedom has a corresponding obligation. When an employer fails in his obligation to his fellow citizens by denying them their human rights, the Government, according to American tradition, acts to guarantee him his individual freedom up to the point where he denies basic freedom to others. Our laws and our courts uphold this principle in rules of the highways, in rules governing trade and commerce, in labor agreements, in housing specifications, in health and welfare regulations, etc. Why not in employment? (*c*) No court has invalidated such procedure anywhere it has been followed, nor has there been any movement for repeal of such laws where they have been instituted.

"Why can't fair employment practices be voluntary?"

(*a*) Those involved in encouraging voluntary employment practices are of these two types: First, some large and powerful groups project this reason in opposing FEPC laws but they do very little themselves on a voluntary basis; second, those who believe that the voluntary basis is valid, but realize at the same time that the most they can do is but a drop in the bucket because of the magnitude of the task, and support voluntary practices as a forerunner to Federal legislation. (*b*) Records show that many businessmen do want fair employment practices in their own plants and offices, but hesitate to take the leadership as champions of a human right, and would prefer that the Government take this lead and allow them to cooperate with the backing of the law. (*c*) Experience has proved that one of the major and determining factors in the success of a changeover from discrimination to equalization, has been the position of the management in taking a firm, clear, unequivocal, and public stand in the declaration of the new policy, usually with the support of State or Federal legislation. This is true whether the situation concerns a swimming pool, a restaurant, or a cemetery. Lack of law in the field of employment has either encouraged irresponsibility in this matter or has caused confused or varied procedure among States and municipalities. A Federal FEPC law would clarify the stand of our Federal Government on equality of employment opportunity.

Now is the time for the leaders to lead. Today a mature political leadership must face the fact of job discrimination in the United States which denies a human right, endangers our domestic welfare, and threatens the peace of the world. There will be a few loud, dissenting voices when such legislation is passed; but millions of other citizens will affirm such forthright action; millions upon millions the world over will be encouraged in their own struggle for liberty and equality; and our own American children and youth will grow up in gratitude for your wisdom and humanity.

STATEMENT OF THE AMERICAN CIVIL LIBERTIES UNION ON CIVIL RIGHTS LEGISLATION

The bills now pending before this subcommittee each deal with one or more methods of protecting the civil rights of the American people. Some are omnibus measures, encompassing (or adding to) in one degree or another several of the proposals made in other bills which each deal with only one civil-rights problem. We urge that this committee favorably act on either one of the major omnibus bills, or on each of the individual measures. We take this position because we believe those bills, with certain amendments, represent a comprehensive expansion of civil rights in the United States.

We believe it is time for the National Legislature to show that it stands behind the Constitution of the United States and agrees with the United States Supreme Court that invidious racial discrimination or segregation has no place in a democratic Nation dedicated to the ideals of freedom and equality. The passage of this legislation would not only eliminate the gap between the promise of equality and our actual practice; it would also be the strongest possible blow that Congress could strike against Communist tyranny, for the Communists' most effective propaganda is that while this country talks about freedom and civil liberties, it does nothing about them. This propaganda argument would be rudely shaken by congressional action to strengthen the civil rights of all Americans.

While we know of the need for congressional committee discussion of proposed legislation, the measures before the subcommittee are not essentially new. Virtually all matters contained in the bills now pending has been subject already to congressional committee scrutiny, not once, but several times. Prolonged or repeated hearings can only result in reiteration of pro and con views which can already be found in reports of previous committee hearings. We submit that what is needed is not further committee deliberation, but a determination to report these bills favorably to the House of Representatives and to work unceasingly for their passage.

We present below a brief analysis of the 10 groups of bills which are pending before the subcommittee. In the interest of brevity and simplicity, we shall treat only the major aspects of these bills, and also attempt to avoid duplication.

I. MAJOR OMNIBUS BILLS

(H. R. 51, Addonizio; H. R. 389, Powell; H. R. 702, Rodino; H. R. 3688, O'Hara)

These are the bills which combine all the other bills which have been introduced on this subject. They contain, generally, an antilynching act; amendments to strengthen the civil-rights statutes; compulsory FEPC, which can be applied both to employers and unions and enforced by application to a United States court of appeals and reviewed by such court as well as the United States Supreme Court; provisions preventing discrimination in transportation, federally assisted housing and education (different bills regulating different stages of education); anti-poll-tax legislation; setting up a Civil Rights Commission in the executive department; a Joint Congressional Committee on Civil Rights; and expansion of the present Civil Rights Section of the Justice Department to a Division with an Assistant Attorney General assigned thereto.

As to prohibition of discrimination and segregation in interstate transportation, while the Supreme Court has ruled that a State law imposing segregation is unconstitutional as an undue burden on interstate commerce (*Morgan* v. *Virginia*, 328 U. S. 373 (1946)), it is not clear whether or not a self-imposed carrier regulation imposing segregation is unconstitutional. The States themselves probably cannot outlaw these regulations, since that too would be an undue burden on interstate commerce (*Hall* v. *DeCuir*, 95 U. S. 485 (1877)). No cry can possibly be raised of States rights, for, as was said in the Hall case, "If the public good requires such legislation, it must come from Congress and not from the States" (id. at 490). There can be no doubt that the public good requires the end of segregation. This degrading process must be stopped, not only to stop the inroads of Communist propaganda, but also to restore dignity to all men, be they white or black.

The importance of an FEPC law cannot be too strongly stressed. Congress has an obligation to insure that all citizens should have equal rights in employment in interstate commerce. This principle shoul apply to employers and associations of workers alike so that the protection of Federal law may be extended to the right to work on the basis of men's ability regardless of race and religion.

The principle has been tested by the wartime Federal agency (FEPC) and by the experience of many States, who have in recent years adopted FEPC statutes. The operation of the State statutes has won over to the side of fair employment practice some of its most vigorous opponents. Fears of coercive measures against employers have been shown to be unfounded. Such measures have not been necessary to secure compliance. General recognition of the justice of fair practice is in the spirit of the times. Even the fears of coercion in the South are unfounded in the light of methods used both by the Federal Government in wartime and by the States.

The chief objection to such a bill is apparently that an employer's relationship with his employees is a private matter not subject to regulation by the State in hiring or promotion. But Congress has already legislated in regard to private employment in many ways. It has regulated collective bargaining and the closed shop. It has barred employment in private industry under certain conditions to Communists and Fascists. It has assumed under the interstate commerce clause wide powers over employing policies.

The bills would not compel any employer to hire any particular person. They would ban only the practice of racial or religious discrimination—by employers and labor unions alike.

The charge that the bills are an interference with States rights is answered first, by the fact that the Supreme Court can be trusted to protect these States rights guaranteed by the Constitution, and secondly by the fact that States rights are protected by the bills' omission of employers not engaged in interstate commerce or in operations not affecting interstate commerce.

The charge that the compulsory features of the bills are unfair is without merit. The Commission must investigate charges of discrimination, and if it finds probable cause it must then follow the methods of conference, conciliation and persuasion. It cannot be too strongly emphasized that in the States in which FEPC has already been in operation for a substantial length of time, t ere has hardly been an instance in which these informal methods have failed to remedy the complaint. Compulsion is necessary behind any law. If informal methods do not work, what form would compulsion take? A full hearing must be held before the Commission, in which the employer has the fullest opportunity. If the Commission deems the employer guilty of discrimination, it issues a cease-and-desist order, which may be enforced only upon petition to the courts, and the courts under certain conditions may order that additional evidence be taken. After such full and fair procedure, an employer's freedom to hire, but not to discriminate, could not be in the least impaired. If it is argued that it is difficult to determine discrimination, the answer is that all courts and administrative agencies must and do determine more difficult factual questions. The very difficulty of proving discrimination would insure that no one will be unjustly held guilty by the Commission or by the courts.

The interest of the ACLU as a national agency of 35 years' record in supporting for everybody the principles of the Bill of Rights, is in the extension of those rights to industry. It is not enough to urge equality before the law in political rights regardless of race and religion; the principle is valid for our democracy as applied to a man's right to equality in employment.

Federal law alone can fix fair standards for the Nation. Federal law alone will serve notice to the world that our democracy means in fact what we profess in principle. (See, also, III below.)

II. MINOR OMNIBUS BILLS

(H. R. 627, Celler; H. R. 3389, Barrett; H. R. 3423, Davidson; H. R. 3472, Roosevelt; H. R. 3562, Chudoff; H. R. 3585, Diggs; H. R. 5348, Reuss)

These bills are generally limited to establishing an Executive Commission on Civil Rights, expanding the civil-rights activities of the Justice Department, creating a Joint Congressional Committee on Civil Rights, amending and improving existing civil-rights statutes, and legislating against discrimination and segregation in interstate transportation. (See, also, III below.)

III. ANTILYNCHING BILLS

(H. R. 259, Celler; H. R. 3304, Dollinger; H. R. 3480, Roosevelt; H. R. 3568, Chudoff; H. R. 3575, Davidson; H. R. 3578; Diggs; H. R. 5345, Reuss)

Happily, the number of lynchings in the United States has sharply declined. But even one case of lynching per year would be a national disgrace and Congress should therefore enact an antilynching bill to assure the protection of the Federal Government for the prevention of lynching.

The bills proposed on this subject vary considerably in details. Some of these, such as H. R. 259, give a right of civil action for damages to any person lynched or his estate, against those who, having the responsibility to do so, negligently or willfully failed to prevent the lynching. Others, such as H. R. 3304, provide for a civil action against the governmental subdivision which fails to prevent the lynching, such liability ceasing if the governmental subdivision proves that all proper efforts were made by officials to stop the lynching. Others, such H R. 3480, combine both features.

There is a civil liberties defect in H. R. 259 and 3304, which is found also in the omnibus civil-rights proposals. These bills make criminal mere membership in a lynch mob. This is a new twist to the idea of guilty by association, which is so foreign to our civil-liberties standards. A person who finds himself in such a mob, but does not participate in it or who would like to get out of it but cannot, is nonetheless made guilty of a serious Federal offense, merely because of his presence in the mob. It might be that the courts may read into this legislation a requirement of knowledge and intent, but this should not be left out for judicial speculation, for this section of the bill might fall if the court fails to read in such a requirement (*Weiman* v. *Updegraff*, 344 U. S. 186). The remaining bills in this group attempt to deal with this problem by defining a lynch mob as two or more persons who knowingly act in concert This would probably remove the constitutional objections we have raised, but it would be infinitely better if the legislation clearly spelled out that not only those persons who knowingly participate in the violence or aid or attempt to aid by action or inaction shall be criminally responsible.

While none of the bills in this group make a community liable when the community can show effectively that its officials and persons deputized by them took proper care to prevent the lynching, the omnibus bills generally do not include such a proviso. This should be changed in the omnibus bill, for, from a civil liberties point of view, a community should not be held liable for a lynching when it took all proper steps to prevent it. For the Federal Government to impose liability without fault upon a local government subdivision seems to us unconstitutional, both as a violation of the balance of the Federal and State powers and of due process of law.

IV. TO AMEND AND SUPPLEMENT CIVIL-RIGHTS STATUTES

(H R. 3387, Barrett; H. R 3421, Davidson; H. R. 3474, H. R. 3566, Chudoff; H. R. 3580, Diggs; H R 5349, Reuss)

These bills, all virtually identical, would amend and supplement the existing civil-rights statutes. Section 241 (a) of the Criminal Code (title 18 U. S. C.) now makes criminal the conspiracy of two or more persons to injure, oppress, threaten, or intimidate any citizen in the exercise or enjoyment of his constitutional rights. These bills would change the word "citizen" to the word "inhabitant," thus desirably extending the class of persons protected and making the language coincide with that of section 242. However, these bills might have the unfortunate result of narrowing the law's application instead of the intended result of extending its scope. It is conceivable that one who is a citizen but not an inhabitant of the local area, or a noncitizen and noninhabitant, might be deprived of his rights without protection. This can be remedied by using the word "person" instead of the word "citizen" or "inhabitant." (See V below.)

These bills make other valuable contributions to the law. They would make an individual guilty of criminal conduct if he performed alone acts which are criminal had he performed them in concert with another person. This remedies an obvious defect in the existing law, since criminal acts when performed by two people should not be considered as noncriminal because performed by one person A violation of a constitutional right is just as much of a violation when it is done by one or two or more individuals.

These bills would also give to the person whose civil rights were violated a private right to a civil action for damages or other relief in the Federal courts. This law is needed, since such private lawsuits are not available in the present state of the law. (*Collins* v. *Hardyman*, 341 U. S. 651.) It may be argued that since such violations of rights usually are violations of State law too, there is no need for such a provision. However, a person whose constitutional rights are violated has had Federal rights violated too, and he should be able to vindicate such Federal rights (and in a Federal forum) as well as the rights the State law gives him.

These bills would also increase the punishment for violations of civil rights when their conduct results in death or maiming. They would also add new sections defining the rights, privileges, and immunities which are protected, thus removing the objections that many have made to purported vagueness in the statute. Such additions would increase respect for the law, make protection thereunder easier, and give greater warning to individuals as to what conduct is criminal.

These bills would also strengthen protection of political rights. They would clarify the present law expressly by making criminal interference with voting, not only in general elections, but in special and primary elections as well, an important addition. They add that equal opportunity to vote shall be given without prohibited bases of race or color. Civil actions for damages are given, and this section of the law is made enforceable by the Attorney General. The prohibited conduct would be must less likely to occur if these civil remedies, easily pursued, are added to the already existent but inadequately enforceable criminal penalties.

V

(H. R. 258, Celler)

This bill recognizes the difficulties mentioned above in reference to the use of the word "inhabitant" and uses the language we suggest.

VI. TO ESTABLISH A COMMISSION ON CIVIL LIBERTIES

(H. R. 3388, Barrett; H. R. 3422, Davidson; H. R. 3475, Roosevelt; H. R. 3568, Chudoff; H. R. 3579, Diggs; H. R. 5351, Reuss)

These bills would establish a Commission on Civil Rights in the executive branch of the Government whose function it would be to gather information on civil liberties, appraise governmental and private action in connection therewith, and annually report its findings and recommendations. The importance of such a Commission cannot be overemphasized. The ACLU believes that the 1948 presidentially appointed *ad hoc* Committee on Civil Rights, both through its study of civil-liberties problems and the tremendous educational value of its findings and recommendations, made an incalculable contribution to the strengthening of our constitutional guarantees of equality. There can be no doubt of the desirability of having such a Commission on a permanent basis to continue such important work.

VII. ELECTIONS

(H. R. 3390, Barrett; H. R. 3419, Davidson; H. R. 3476, Roosevelt; H. R. 3569, Chudoff; H. R. 5343, Reuss)

These bills clarify the present law by expressly making criminal interference with voting not only at general elections, but at special and primary elections as well.

It adds that equal opportunity to vote shall be given without distinction, direct or indirect, based on religion or national origin, as well as on the already prohibited basis of race or color. Distinction on the basis of previous condition of servitude is omitted, since no such distinction can exist anymore. These clarifications should be heartily applauded for they will broaden the protection of voting privileges, an integral part of the first amendment, and one of the cornerstones of our democracy.

VIII. TO REORGANIZE THE DEPARTMENT OF JUSTICE

(H. R. 3391, Barrett; H. R. 3478; H. R. 3571, Chudoff; H. R. 3583, Diggs; H. R. 3418; H. R. 5350, Reuss)

These provide for the reorganization and strengthening of the civil rights activities of the Department of Justice The need for such a reorganization is patent to anyone with knowledge of the Department's past activities. Handicapped by insufficient funds and a scarcity of personnel, the Department has rarely been able to initiate civil rights prosecutions. The strengthening and reorganization of the Civil Right Section is long overdue.

IX. PEONAGE

(H. R. 628, Celler; H. R. 3394, Barrett; H. R. 3420, Davidson; H. R. 3481, Roosevelt; H. R. 3567, Chudoff; H. R. 3581, Diggs)

These bills would make criminal attempts to commit peonage, holding a person for peonage, and would make criminal use of other means of transportation besides vessels for purposes of peonage. The vestiges of peonage have no place in a democratic nation, and we urge the adoption of this bill to once and for all eliminate this evil.

X

(H. R. 5503, Anfuso)

This is an omnibus bill less comprehensive than any of the other, providing only for a civil rights commission, antipoll tax, antilynching and an FEPC law.

Mr. LANE. There has been received a number of departmental reports on various of the civil-rights bills we are considering which without objection, will be included in the record. The report of the General Services Administration on H. R. 389 and H. R. 702, dated May 31, 1955, appears at p. 187 of these hearings and the report of the Interstate Commerce Commission on H. R. 389, dated June 8, 1955, appears at p. 188 of these hearings. These reports were made a part of the record of these hearings by Congressman Adam C. Powell at the time he testified.

(The reports referred to are as follows:)

UNITED STATES DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, July 14, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN CELLER: This is in further response to your request for an expression of my views on H. R. 51, H. R. 389, H. R. 702, H. R. 3688, and H. R. 5503.

These are comprehensive bills that deal with all aspects of civil rights. They include provisions against discrimination and segregation in the armed services, transportation, housing, education and employment, antilynching provisions, and provisions for the protection of political rights, improvement of existing civil rights statutes, and strengthening the machinery of the Federal Government for the protection of civil rights.

I am in complete agreement with the purpose of these bills. There is no place in any part of our national life for prejudice, discrimination, or denial of rights because of race, religion, or national origin. There may be some question, however, as to whether Federal legislation on the extremely broad scale contemplated by these bills and with regard to all aspects of these problems is the most desirable approach to the elimination of the prejudice and intolerance which we know are still existent.

It should be recognized that considerable progress in this field has been made in recent years by administrative, judicial, and voluntary means. In the armed services, for example, segregation and discrimination have been effectively dealt

with by executive action to the extent that there would appear to be no necessity for the enactment of legislation in this respect.

In the field of education, decisions of the Supreme Court relating to segregation in public schools, and equal facilities in institutions of higher learning, when fully implemented, should go far toward meeting the problem. The Supreme Court's decision on the enforcement of restrictive convenants and decisions of other courts on segregation in public housing provide means whereby the problem may be met in housing. Segregation in interstate transportation is well on the way toward being outlawed by judicial action.

Through the work of the President's Committee on Government Contracts, there has been a more vigorous enforcement of the clause of Government contracts which prohibits racial and religious discrimination in employment. An important part of the Committee's program is its promotional and educational work with Government contractors and with the business community at large. Through individual and group contracts on the part of the Committee and its staff, it is bringing the moral righteousness and economic soundness of the concept of equal economic opportunity to the attention of the leaders of American business.

In brief, my position is that there has been significant progress in removing the evils of racial and religious prejudice and discrimination from some of the aspects of our lives. Much of this progress has been accomplished without reliance upon any large body of Federal statutory law. It is questionable whether every aspect of this problem would benefit by legislative action. Consideration might appropriately be given, therefore, to whether Federal legislation is necessary or desirable in all these areas at this time.

It would appear that attempting to deal with all aspects of the problems of discrimination, segregation and denial of civil rights in an omnibus fashion, such as is proposed in these bills, has limitations as a means of securing appropriate consideration of legislation in these fields. The vast scope of activities covered by them itself would prevent proper consideration of the problems present in each area and the most effective methods of dealing with them. Opposition to certain provisions could well lead to defeat of other provisions, the enactment of which might otherwise be possible. While there are provisions which, standing alone, may merit legislative approval, it would appear that administrative, judicial, and voluntary effort should be continued before an omnibus legislative approach becomes necessary.

The Bureau of the Budget advises that it has no objection to the submission of this report.

Sincerely yours,

JAMES P. MITCHELL, *Secretary of Labor.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
July 18, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: This letter is in response to your requests of February 24, 1955, for reports on H. R. 389, a bill to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States, and H. R. 702, a bill to protect the rights of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin.

The only portion of H. R. 389 which is of direct concern to this Department is title II, part 7, entitled "Prohibition Against Discrimination in Education" This portion of the bill would prohibit discrimination or segregation because of race, color, religion, or national origin, in any school or educational institution which receives any Federal funds or any Federal tax exemption. Complaints alleging such discrimination or segregation would be reported to the Administrator of the Federal Security Agency (the predecessor to the Secretary of Health, Education, and Welfare) who would be authorized and required to hold a hearing to determine whether a violation had occurred. Sanctions available on the establishment of a violation would include removal of the officer responsible from office, withholding of Federal loans, grants, or tax exemptions in an amount equal to 2 years' compensation of the person responsible, and criminal sanctions. Jurisdiction to prevent and restrain violations would be vested in

the United States district courts and appeal would be by petition in the United States Court of Appeals for the District of Columbia.

The only portion of H. R. 702 of direct concern to this Department is title V, entitled, "To Eliminate Segregation and Discrimination in Opportunities for Higher and Other Education." This portion of the bill would declare it to be an unfair educational practice for any educational institution of postsecondary grade to exclude, limit, or otherwise discriminate against any person seeking admission as a student because of race, religion, color, or national origin, with the exception of selection of students by a religious or denominational educational institution from among members of such religion or denomination. Any person claiming to be aggrieved by such an alleged unfair educational practice would have the right to petition the Commissioner of Education, who would be required to attempt, either by informal methods or through a formal hearing procedure, to induce the elimination of the alleged unfair educational practice. Following a determination by the Commissioner that the respondent institution had engaged in an unfair educational practice, the Commissioner would be required to issue an order terminating all programs of Federal aid of which the respondent was the beneficiary. Judicial review of the final order of the Commissioner could be obtained through the appropriate United States circuit court of appeals and the United States Supreme Court. A special provision in the bill would amend Public Laws 874 and 815 (81st Cong.), as amended, so as to prevent any payments under those acts to any local educational agency which practices discrimination or segregation among pupils or prospective pupils by reason of their race, religion, color, or national origin.

This Department is in complete accord with the general objective of these bills, namely, to strengthen protection of individual civil rights, including the right of freedom from discrimination or segregation in education because of race, color, religion, or national origin, as described in title II, part 7 of H. R. 389 and title V of H. R 702. Substantial progress toward the elimination of discrimination and segregation in education has been made during recent months by other than legislative means, for example, through the recent Supreme Court decision and decrees declaring racial segregation in the public schools to be unconstitutional.

The Department believes that further progress toward the ultimate objective of eliminating discrimination and segregation in education can be best achieved at the present time through voluntary and administrative action, such as, for example, the recent voluntary action of several of the States in admitting Negroes to public higher educational institutions, and, in the case of the public schools, through the judicial procedure prescribed in the recent Supreme Court decrees, rather than through the enactment of compulsory, statutory requirements such as proposed in these bills.

With respect to the other portions of the bills we would defer to the views of the other Federal agencies more directly concerned.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

OVETA CULP HOBBY, *Secretary.*

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, July 19, 1955.

HON EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: I refer to your request to the Secretary of Defense for the views of the Department of Defense with respect to H. R. 389, 84th Congress, a bill to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States. The Secretary of Defense has assigned to the Department of the Air Force the responsibility for providing your committee with a report on this legislation on behalf of the Secretary of Defense.

The purpose of H R 389, as indicated in its title, is to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States. Title I of the bill contains provisions for strengthening the Federal Government machinery for the protection of civil rights. It includes the establishment of a commission of civil rights in the executive branch of the

Government and the reorganization of civil-rights activities of the Department of Justice. Title II contains provisions for strengthening protection of individuals' rights to liberty, security, citizenship, and its privileges. It includes amendments and supplements to existing civil-rights statutes, protection of the right to political participation, protection of persons from lynching, prohibitions against discrimination or segregation in interstate transportation and in housing, and prohibitions against discrimination in employment and in education.

The question involved in H. R. 389 are matters of broad public policy not of primary concern to the Department of Defense. Therefore, the Department of the Air Force on behalf of the Department of Defense refrains from commenting on the merits of the proposed legislation.

No additional cost to the Department of Defense will result from the enactment of the proposed legislation.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

DAVID S. SMITH,
Assistant Secretary of the Air Force.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., July 15, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington 25, D. C.

DEAR MR. CELLER: This is a further reply to your letter of February 24, 1955, which requested the views of the Civil Service Commission on H. R. 389, a bill to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

The Civil Service Commission is primarily concerned with those portions of H. R. 389 which relate to personnel management in the Federal Government. We neither object to nor specifically endorse the provisions of the bill which concern civil rights generally. We are wholly in accord with the intent and provisions of the bill which would affect employment practices in the Federal Government and recommend their enactment with certain changes in order to clarify and further their purposes. We have also noted a few technical defects.

The major provisions of the bill which would affect personnel management in the Federal Government, or about which the Civil Service Commission has comment, include the following:

(1) Agencies and instrumentalities of the United States are included in the definition of persons and employers included in the bill. The Federal establishment would be required to refrain from unfair employment practices. These practices include discrimination in hiring, discharging, or in the terms, conditions, or privileges of employment because of an individual's race, color, religion, or national origin.

(2) In its application to the Federal Government, an employee must first exhaust all administrative remedies before coming to the proposed Fair Employment Practice Commission. Orders of the Commission relating to the Federal Government may be transmitted to the President for appropriate action. The provisions in the bill for judicial enforcement and review of the orders of the Fair Employment Practice Commission would not apply to the agencies and instrumentalities of the Federal Government.

(3) The bill provides that the Fair Employment Practice Commission may require the hiring or reinstatement of an employee with or without back pay provided that interim earnings or "the amounts earnable with reasonable diligence" shall operate to reduce back pay allowable.

(4) The bill considers as an unfair employment practice the use as sources in hiring or recruitment of employment agencies, schools, labor organizations, and other institutions which practice discrimination.

(5) The staff of the Fair Employment Practice Commission would be appointed and compensated in accordance with the Civil Service Act, rules and regulations, and the Classification Act of 1949, as amended. No such provision is made for the staff of the proposed Commission on Civil Rights.

(6) The salaries proposed for the Chairman and members of the proposed Fair Employment Practice Commission are $20,000 and $17,500 a year, respectively.

(7) A per diem allowance in lieu of subsistence of not more than $10 is provided for members of the Commission on Civil Rights while engaged in the work of the Commission.

The Civil Service Rules and Regulations specifically prohibit discrimination in the competitive civil service on the grounds specified in H. R. 389. In addition, the President has established under Executive Order 10590 the President's Committee on Government Employment Policy which has the function of eliminating employment practices improperly based on race, color, religion, or national origin as well as segregation of employees on such bases. The broad purpose of H. R. 389 as it would affect Federal employment is therefore wholly in accord with the program of the President and the Civil Service Commission. Since the bill provides that administrative remedies, which would include those provided by regulations and procedures of the Civil Service Commission and of the President's Committee on Government Employment Policy, must be exhausted before any employee may seek relief from the proposed Fair Employment Practice Commission, and since compliance with the orders of that Commission would be at the discretion of the President and not judicially reviewable, there would be no conflict between the provisions of the bill and current procedures in the Federal Government designed to eliminate discrimination in employment.

Several specific provisions of H R. 389, however, would cause problems for the Federal service. The provisions which we believe would cause difficulty and our recommended changes are as follows:

1. The provision authorizing the Fair Employment Practice Commission to order the hiring or reinstatement of an employee with or without back pay is not clear in its intent. We cannot determine from the language of the bill whether it is intended that H. R. 389 establish a new statutory authority for back pay or whether it is intended to permit back pay when a statutory authority already exists for such payment. If it establishes a statutory authority in addition to Public Law 623 of 1948 and Public Law 733 of 1950, the two existing authorities for back pay in the Federal service, it presents certain problems. It is not consistent, either in coverage or benefits, with the existing laws. Since the purpose of back-pay legislation is to correct injustices, it is essential that such authorities be consistent and uniform in their application to all employees.

Further, it is not clear whether the back pay provision refers solely to reinstatements or whether it refers both to reinstatements and to original hiring when it has been ascertained that a person was denied appointment because of an unfair employment practice. Back pay is now authorized in certain cases of reinstatement following improper demotion, suspension, furlough or separation. If back pay were to be authorized in original hirings, it would be without precedent in the Federal service. We would want to consider carefully the advisability of such a provision, including what standards should apply, before we comment on the proposal. We favor the provision of back pay in reinstatement cases. However, there would appear to be many obvious difficulties in attempting to apply this provision to the original hiring of employees.

Thus, under one interpretation, the proposed back pay provision would be inconsistent with existing legislation, and under the other interpretation it would be unnecessary. Accordingly, we recommend that the Federal Government be exempted from the back pay provisions of H. R. 389.

2. The provision which would require deduction from back pay of "the amounts earnable with reasonable diligence" will also cause difficulty. This term would require judicial interpretation but judicial review is not provided for in cases involving Federal employees. Current laws cited above authorizing back pay in the Federal Government, provide that amounts earned during periods of improper separation shall be deducted from the amount of back pay, but no provision is made for offset of amounts not actually earned. It would be extremely difficult to determine what this amount should be. Amendment of the bill to exempt the Federal Government from the back pay provisions will also eliminate this problem.

3. The bill provides that it shall be an unlawful employment practice to use, as a source of recruiting and hiring, certain institutions which discriminate against individuals because of their race, religion, or national origin. We believe that this provision may lead to discrimination rather than eliminate it.

We are concerned about the effect of this provision on Federal hiring practices. The bill could be interpreted as restricting the Federal service from using as recruiting sources schools or other institutions which may be established on a

sectarian or racial basis. The Civil Service Commission and its boards of examiners use all appropriate sources in recruiting for Federal employment. In our opinion, discrimination does not occur when such institutions are used in recruiting so long as recruitment is not restricted to these sources. We believe that this provision would operate in a manner which would actually be contrary to the broad intent of H. R. 389. We recommend, therefore, that the Federal Government be exempted from application of this provision.

4. The bill specifies that the staff of the Fair Employment Practice Commission shall be appointed in accordance with the Civil Service Act, Rules and Regulations, and compensated in accordance with the Classification Act of 1949, as amended. It does not do so for the staff of the proposed Commission on Civil Rights. Ordinarily, Federal employment is presumed to be under the civil-service laws, and compensation under the Classification Act unless a specific statutory exception is made. In view of the fact that specific provision is made in one case but not in the other, however, there may be a problem of interpretation. We recommend, therefore, that the bill be amended to state specifically that employment and compensation of the staff of the Commission on Civil Rights will be subject to the Civil Service Act, Rules and Regulations and to the Classification Act of 1949, as amended.

5. The bill provides salaries of $20,000 a year and $17,500 a year for the chairman and members of the proposed Fair Employment Practice Commission respectively. These recommended salaries should be reviewed and adjusted proportionately if Congress adjusts the salaries for executives paid in accordance with the Executive Pay Act, Public Law 359, 81st Congress.

6. The bill provides that the members of the Commission on Civil Rights shall receive $50 per day for each day spent in the work of the Commission, plus actual and necessary traveling or subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10). To bring the per diem allowance rate in line with per diem allowances for other personnel in the executive branch, we recommend that the rate provided be "as authorized by law" rather than "not in excess of $10."

As we stated earlier, we have noted certain technical defects which are not concerned with the substance of the bill. These defects are as follows:

1. Title II, part 5, of the bill, page 28, beginning on line 17, provides that the President shall designate a member of the Fair Employment Practice Commission as vice chairman, but does not provide for designation of a chairman.

2. The provisions with regard to State and local governments appear inconsistent and in conflict. These governments are excluded from the definition of "employer" in title II, part 5, of the bill, page 25, beginning on line 1. However, the provision of this title on page 41, beginning with line 16, provides that the Fair Employment Practice Commission may act against any State or local government of any agency, officer, or employer thereof who commits an unfair labor practice as described in this bill, provided that a State or local government employee must first exhaust the administrative remedies prescribed by government.

3. The heading appearing on page 41, lines 3 and 4, "Enforcement of Orders Directed to Government agencies and Contractors." Since provisions directed to Government contractors are not included in the section under this heading, it appears to be in error.

4. Section 242 provides that title 41, United States Code, section 34 be amended to include a new subdivision (f). Apparently reference to section 35 rather than to 34 was intended.

5. Title II, part 5, section 241 of the bill provides that title 29, United States Code, is amended by adding as chapter 9 thereof, legislation to be known as the Federal Fair Employment Practice Act. Since chapter 9 of title 29 is already in existence a correction in chapter numbering appears to be required in the bill.

We are advised that the Bureau of the Budget has no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

PHILIP YOUNG, *Chairman.*

INTERSTATE COMMERCE COMMISSION,
Washington, April 11, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CHAIRMAN CELLER: Your letter of February 25, 1955, requesting an expression of the Commission's view on a bill, H. R. 627, introduced by you, to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States, has been referred to our Committee on Legislation. After careful consideration by that committee, I am authorized to submit the following comments in its behalf:

As stated in its title, the purpose of H. R. 627 is to provide means of further securing and protecting civil rights. The bill is divided into two major divisions, title I and title II, each of which, in turn, is subdivided into three parts. Title I contains provisions designed to strengthen the Federal Government machinery for the protection of civil rights by providing for the establishment of a Commission on Civil Rights in the executive branch of the Government under the provisions of part 1 thereof, by providing for the establishment of a Civil Rights Division in the Department of Justice under the provisions of part 2, and by providing for establishment of a joint congressional Committee on Civil Rights under part 3. Title II of the bill contains provisions which are intended to strengthen the protection of an individual's rights to liberty, security, and citizenship and its privileges, and to that end part 1 thereof would amend and supplement the existing civil-rights statutes. Part 2 would amend and supplement the existing Federal statutes relating to intimidation of voters and the right to vote, and part 3 would prohibit discrimination or segregation in interstate transportation.

Most of the provisions of H. R. 627 do not pertain to the jurisdiction or functions of this Commission, but relate to matters upon which we are not qualified to express a helpful opinion based on our experience in the regulation of transportation Our comments, therefore, shall be confined, for the most part, to those provisions relating to transportation.

Under the provisions of section 103 (a) of the bill, the Commission on Civil Rights, which would be created under the provisions of section 101, would be authorized to utilize to the fullest extent possible, the services, facilities, and information of other Government agencies, and the agencies would be directed to cooperate fully with the new Commission in this connection. While we have no objection to such a provision, we wish to point out, as we have previously done with respect to similar provisions in other proposed legislation, such as that proposing the establishment of a Commission on Area Problems of the Greater Washington Area, that this Commission would not be in a position with its present staff and without additional funds, to furnish an unlimited amount of information, or to place its facilities and services at the unlimited disposal of the new Commission.

Section 211, part 3, title II, of the bill provides that all travelers "shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, * * * without discrimination or segregation based on race, color, religion, or national origin." Subsection (b) of section 221 would make it a misdemeanor for anyone, whether acting in a private, public, or official capacity, to deny or attempt to deny any traveler such accommodations, advantages, or privileges for any such reason, or to incite or participate in such denial or attempt, and provides penalties therefor and other relief. Section 222 would similarly make it a misdeameanor for any such common carrier, or any of its officers, agents, or employees to segregate or attempt to segregate or otherwise discriminate against passengers using any of its public conveyances or facilities on account of race, color, religion, or national origin, and would likewise provide penalties and other relief for violations.

Under section 3 (1) of the Interstate Commerce Act, it is now unlawful "for any common carrier * * * to make, give, or cause any undue or unreasonable preference or advantage to any particular person * * * or to subject any particular person * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." This provision relates principally to rail carriers. There are similar provisions in other parts of the act applicable to motor and water carriers and freight forwarders.

Soon after the Interstate Commerce Commission was established in 1887, it was called upon to decide whether the provision above quoted prohibited the railroads in certain sections of the country from requiring that Negro and white passengers occupy separate coaches and other facilities, as they were compelled to do by statutes in a number of States. In all such cases, which have become increasingly numerous and complicated in recent years, the Commission has limited its inquiry to the question whether equal accommodations and facilities are provided for members of the two races, adhering to the view that the Interstate Commerce Act neither requires nor prohibits segregation of the races.

In *Plessy* v. *Ferguson* (163 U. S. 537 (1896)), the Supreme Court of the United States held that a Louisiana statute requiring railroads carrying passengers in their coaches in that State to provide equal, but separate accommodations for white and colored races in the form of separate or divided coaches was not in conflict with the provisions of either the 13th or the 14th amendment to the Constitution of the United States. The Court concluded (pp. 550–551):

"* * * we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the 14th amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of State legislatures."

Earlier in that decision the Court had stated (p. 544):

"* * * Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the State legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored races have been longest and most earnestly enforced."

In the recent decision of *Brown* v. *Board of Education* (347 U. S. 343 (1954)) and the related cases decided in the consolidated opinion of May 17, 1954, the Supreme Court quoted with approval the language of the Kansas District Court as follows:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. This impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. * * *"

The Court went on to say:

"Whatever may have been the extent of psychological knowledge at the time of *Plessy* v. *Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy* v. *Ferguson* contrary to this finding is rejected.

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

In Docket No. 31423, *National Association for the Advancement of Colored People, et al.*, v. *St. Louis-San Francisco Railway Company, et al.*, which is now pending before the Commission, we are asked to rule whether the provision of separate but equal transportation facilities violates section 3 of the Interstate Commerce Act or the Constitution, and in Docket No. MC–C–1564, *Sarah Keys* v. *Carolina Coach Co.*, which is also pending before the Commission, we are asked to rule whether such provision violates section 216 (d) of the act.

In view of the pendency of the above-mentioned proceedings, we believe it would be inappropriate for us to express any opinion in regard to the provisions of sections 221 and 222 of the bill.

Respectfully submitted.

RICHARD F. MITCHELL,
Chairman, Committee on Legislation.
OWEN CLARKE.
HOWARD G. FREAS.

APRIL 26, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 628) to amend sections 1581, 1583, and 1584 of title 18, United States Code, so as to prohibit attempts to commit the offenses therein proscribed.

The bill would amend sections 1581, 1583, and 1584 of title 18 of the United States Code, the provisions of law which relate to peonage and involuntary servitude, so as to make criminal all atempts to commit the acts prescribed by such sections.

The proposal to amend section 1583 would also make the section applicable not only to the enticement of persons to go on board a "vessel" with the intent that such persons be made slaves but to similar enticement to go on board any other means of transportation.

The Department of Justice would have no objection to the enactment of this legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

VETERANS' ADMINISTRATION,
July 18, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington 25, D. C.

DEAR MR. CELLER: This is in further reply to your request for a report on H. R. 702, 84th Congress, a bill to protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin.

Title V of the bill, which relates to discrimination in opportunities for higher and other education, and title VII of the bill, which relates to discrimination in housing, are pertinent to the Veterans' Administration.

The general purpose of title V is to eliminate segregation and discrimination in opportunities for higher and other education. Section 506 (i) provides:

"If, upon all the evidence, the Commissioner shall determine that the respondent has engaged in an unfair educational practice, the Commissioner shall state his findings of fact and conclusions and shall issue and cause to be served upon such respondent a copy of such findings and conclusions and an order terminating, at the conclusion of the applicable school year, all programs of Federal aid of which such respondent is the beneficiary."

The term "Federal aid" is not defined in title V of the bill. However, the term "Federal aid," when applied to education, is generally construed to apply to the Federal-aid programs administered by the Commissioner of Education. Accordingly, it is assumed that such words, as used in the bill, refer to the programs under the jurisdiction of the Commisioner rather than the programs of education and training under the jurisdiction of the Veterans' Administration.

The Veterans' Administration is mainly concerned with the veteran and not with any benefits which might flow to schools and others. This principle was emphasized when Public Law 550, 82d Congress, was enacted. Public Law 550 provided for direct payments to the veteran, thereby enabling the veteran to deal with the school on the same basis as any other student who is not in receipt of Federal aid Records show that payments are made to veterans pursuing programs of education or training without any distinction being made as to race, color, religion, or national origin. There is apparently no restriction in the bill which would prohibit the Veterans' Administration from making payments to educational institutions to cover the costs of tuition, fees, books, supplies, and other items for veterans enrolled under Public Law 16, 78th Congress, as amended; Public Law 346, 78th Congress, as amended; or Public Law 894, 81st Congress, as amended. It is not believed that enactment of the bill, in its present form, would require any material change in the education or training programs administered by the Veterans' Administration or cause any material change in the cost of the Veterans' Administration programs.

The general purpose of title VII of the bill is to prohibit segregation and discrimination in housing because of race, religion, color, or national origin.

Section 701 (1) would have the effect of requiring a veteran who obtains a Veterans' Administration guaranteed or insured loan to certify that in selecting a purchaser or tenant for the property he will not discriminate against any prospective purchaser or tenant by reason of race, color, religion, or national origin and that he will not sell the property "while the insurance is in effect" unless the purchaser files a similar certificate with the Veterans' Administration. As a technical point, the quoted language specifies only "insurance," although the bill undoubtedly is intended to cover guaranteed loans as well.

Section 701 (1) deals specifically with conveyances which occur after the loan is guaranteed or insured. In the case of the Veterans' Administration, it would require the veteran to certify that he would not discriminate in the event that at some future date he decides to sell or rent the property. It has no reference to requiring the builder or other seller to hold the units open to sale to any qualified purchaser in connection with guaranteeing or insuring the loan initially. This would, of course, be of considerable importance in respect to the dual commitment procedure of the Federal Housing Administration, since in such cases the mortgage is insured with the builder as the mortgagor.

The bill, as drafted, would require the certification of the veteran and the veteran's immediate grantee. It would not be applicable in respect to any remote grantees who may acquire the property from the immediate transferee of the veteran. There is no indication of what the consequences would be in the event the veteran sells the property but his purchaser fails to file the required certificate with the Veterans' Administration If the guaranty should terminate it would be self-evident that lenders would discontinue participation in the program, since the guaranty might be impaired by reason of the veteran's action in a situation over which the lender has no control. Perhaps it would be provided that this would constitute an act of default, and unless the purchaser filed the required certificate foreclosure action would be undertaken. The question of whether the veteran did or did not discriminate in the sale of a unit also may be quite difficult to resolve, and the consequences are uncertain.

The bill, as drafted, would not affect direct loans made by the Veterans' Administration, nor would it be applicable in the case of vendee accounts where an acquired property is sold on credit terms.

Section 701 (2) of the bill would affect the Veterans' Administration, since it provides that in the administration of the Servicemen's Readjustment Act of 1944, as amended (inter alia), it shall be the policy of the United States that "there shall be no discrimination affecting any tenant, owner, borrower, or recipient or beneficiary of a mortgage guaranty by reason of race, color, religion, or national origin, or segregation by virtue thereof." It will be noted that at this point the reference is solely to "guaranty," authough by clear implication it is intended that insured loans be covered as well. However, the effect of the proposed amendment is not clearly evident. The principal question is whether this provision would require a builder or other seller to sell the units to any qualified purchaser on the so-called open-occupancy basis. It would not appear that guaranty or insurance would be denied to veterans proposing to buy such units if the "open occupancy" practice is not being followed. Nevertheless, it would be difficult to determine the precist effect of such a provision, and clarification would be highly desirable. This section also omits any reference to Veterans' Administration direct loans.

The bill covers many areas in addition to those discussed herein. While it is the policy of the Veterans' Administration to avoid discrimination by reason of race, color, religion, or national origin, and this policy is adhered to in the various programs under its jurisdiction to the extent of its legal power, it is my thought that the Veterans' Administration is not in a position to express a fully informed view on the many broad aspects of the bill. Hence, comment is confined to those matters which would affect directly certain operations of the Veterans' Administration.

The Veterans' Administration does not have sufficient information on which to estimate the cost of the bill, if enacted.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to the committee.

Sincerely yours,

_____,

Deputy Administrator

(For and in the absence of H. V. Higley, Administrator).

INTERSTATE COMMERCE COMMISSION,
Washington 25, June 15, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CHAIRMAN CELLER: Your letter of February 25, 1955, requesting an expression of the Commission's views on a bill, H. R. 702, introduced by Congressman Rodino, to protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin, has been referred to our Committee on Legislation. After careful consideration by that committee, I am authorized to submit the following comments in its behalf:

The purpose of H. R. 702, which is divided into eight major parts, titles I through VIII, is clearly stated in its heading. Many of its provisions, however, do not pertain to the jurisdiction or functions of this Commission, but relate to matters on which we are not qualified to express a helpful opinion based on our experience in the regulation of transportation. Our comments, therefore, shall be confined to those provisions which relate to transportation or are otherwise applicable to the Commission.

Section 107 of title I of the bill would extend the provisions of the Federal kidnaping laws to include the transportation in interstate or foreign commerce of any person unlawfully abducted and held for purposes of punishment, correction, or intimidation. We wish to point out in this connection that statutes of this nature usually contain provisions relieving interstate carriers of liability thereunder unless they knowingly engage in the act or acts declared to be unlawful. It is therefore suggested that provision for such relief be included in section 107. This could be accomplished by amending the section to read substantially as follows:

"SEC. 107 The crime defined in and punishable under the act of June 22, 1932 (47 State. 326), as amended by the act of May 18, 1934 (48 Stat. 781), shall include *knowingly transporting* in interstate or foreign commerce any person unlawfully abducted and held for purposes of punishment, correction, or intimidation." [Substantial changes in language in italic.]

Section 221 (a) of title II provides that all travelers "shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, * * * without discrimination or segregation based on race, color, religion, or national origin" Subsection (b) of section 221 would make it a misdemeanor for anyone, whether acting in a private, public, or official capacity, to deny or attempt to deny any traveler such accommodations, advantages, or privileges for any such reason, or to incite or participate in such denial or attempt, and provides penalities therefor and other relief Section 222 would similarly make it a misdemeanor for any such common carrier, or any of its officers, agents, or employees to segregate or attempt to segregate or otherwise discriminate against passengers using any of its public conveyances or facilities on account of race, color, religion, or national origin, and would likewise provide penalties and other relief for violations

Under section 3 (1) of the Interstate Commerce Act, it is now unlawful "for any common carrier * * * to make, give, or cause any undue or unreasonable preference or advantage to any particular person * * * or to subject any particular person * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." This provision relates principally to rail carriers. There are similar provisions in other parts of the act applicable to motor and water carriers and freight forwarders.

Soon after the Interstate Commerce Commission was established in 1887, it was called upon to decide whether the provision above quoted prohibited the railroads in certain sections of the country from requiring that Negro and white passengers occupy separate coaches and other facilities, as they were compelled to do by statutes in a number of States. In all such cases, which have become increasingly numerous and complicated in recent years, the Commission has limited its inquiry to the question whether equal accommodations and facilities are provided for members of the two races, adhering to the view that the Interstate Commerce Act neither requires nor prohibits segregation of the races.

In *Plessy* v. *Ferguson* (163 U. S. 537 (1896), the Supreme Court of the United States held that a Louisiana statute requiring railroads carrying pas-

sengers in their coaches in that State to provide equal, but separate accommodations for white and colored races in the form of separate or divided coaches was not in conflict with the provisions of either the 13th or the 14th amendment to the Constitution of the United States. The Court concluded (pp. 550–551):

"* * * we cannot say that a law which authorizes or even requires the separation of the 2 races in public conveyances is unreasonable, or more obnoxious to the 14th amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of State legislatures."

Earlier in that decision the Court had stated (p. 544):

"* * * Laws permitting, and even requiring their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally if not universally, recognized as within the competency of the State legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored races have been longest and most earnestly enforced."

In the recent decision of *Brown* v. *Board of Education* (347 U. S. 343 (1954)), and the related cases decided in the consolidated opinion of May 17, 1954, the Supreme Court quoted with approval the language of the Kansas District Court as follows:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. This impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. * * *"

The Court went on to say:

"Whatever may have been the extent of psychological knowledge at the time of *Plessy* v. *Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy* v. *Ferguson* contrary to this finding is rejected.

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

In Docket No. 31423, *National Association for the Advancement of Colored People et al.* v. *St. Louis-San Francisco Railway Company et al.*, which is now pending before the Commission, we are asked to rule whether the provision of separate but equal transportation facilities violates section 3 of the Interstate Commerce Act or the Constitution, and in Docket No. MC–C–1564, *Sarah Keys* v. *Carolina Coach Co.*, which is also pending before the Commission, we are asked to rule whether such provision violates section 216 (d) of the act.

In view of the pendency of the above-mentioned proceedings, we believe it would be inappropriate for us to express any opinion in regard to the provisions of sections 221 and 222 of title II.

Section 301 of the bill provides that title III thereof shall be known as the National Act Against Discrimination in Employment, and under the provisions of section 305 it would be an unlawful employment practice for any employer as defined in section 303, including any agency or instrumentality of the United States, to refuse to hire, to discharge, or otherwise discriminate against any individual respecting the terms, conditions, or privileges of his employment because of his race, religion, color, national origin, or ancestry, or to utilize in the hiring or recruitment of individuals for employment, any employment agency, placement service, training school or center, labor organization, or any other source which so discriminates against individuals Subsection (c) of section 305 would also make it an unlawful employment practice for any employer or labor organization to discharge, expel, or otherwise discriminate against any person because of his opposition to any unlawful employment practice or because of his filing a charge, testifying, participating, or assisting in any proceeding under the proposed act.

We wish to state in this connection that it is the policy of this Commission to appoint the most qualified persons available to fill all vacancies regardless of race, color, creed, or ancestry, and promotions are made on the same basis. The Commission would not consider separating an employee from the service for any reason except for such cause as would promote the efficiency of the service, or

in an orderly reduction in force where retention rights are determined by length of service, permanent status, veteran's preference, or other legitimate factors.

Section 306 of title III would create a new commission, to be known as the National Commission Against Discrimination in Employment, composed of seven members to be appointed by the President with the advice and consent of the Senate. The principal office of the new commission would be located in the District of Columbia, but the commission would be authorized to meet or exercise any or all of its powers at any other place. It would also have the power to establish such regional offices as it may deem necessary. In addition, the commission or an one or more of its members or agents would have authority to conduct such investigations, proceedings, or hearings as would be necessary in the performance of its functions anywhere in the United States, except that any such agent, other than a member of the commission, would be required to be a resident of the judicial circuit in which the alleged unlawful employment practice occurred.

The powers and duties of the new Commission, the rights of the parties, and the procedures to be followed upon the filing of a sworn or written charge alleging unlawful employment practices are described in detail in sections 306 through 309. Provision is also made therein for judicial review of the Commission's orders, including enforcement thereof and other relief, and the procedure to be followed by the courts in such cases. Section 310 provides, however, that the provisions of section 308 respecting judicial review of the Commission's orders shall not apply to an order of the Commission directed to any agency or instrumentality of the United States or of any Territory or possession thereof, or any officer or employee thereof. It provides, instead, that the Commission may request the President to take such action as he may deem appropriate to obtain compliance with such order.

The civilian employment practices of this Commission and other Federal departments and agencies are now governed in this respect by the provisions of Executive Order No. 10590, dated January 18, 1955 (which established the President's Committee on Government Employment Policy), and regulations issued pursuant thereto. Prior to that time the departments and agencies were governed by the provisions of Executive Order No. 9980, dated July 26, 1948 (which provided for the establishment of the former Fair Employment Board in the Civil Service Commission), and the regulations issued thereunder. Whether or not the provisions of title III of the bill should be made applicable to the Federal departments and agencies, in addition to the Executive order now in force, is a matter of broad congressional policy on which we take no position.

Section 310 also provides that the President shall have the power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as defined in the proposed act by any person making a contract with any agency or instrumentality of the United States (except any State or political subdivision thereof) or any Territory or possession of the United States, which contract requires the employment of at least 50 individuals, and that such rules and regulations shall be enforced by the new Commission. This proposal also involves a matter of broad congressional policy on which we take no position.

Section 311 would require the posting of notices by employers and labor organizations setting forth excerpts from the proposed act and other relevant information, and provides penalties for willful violations. Section 312 provides that nothing in the proposed act shall be construed as repealing or modifying any Federal or State law creating special rights or preference for veterans, and section 313 would grant the new Commission authority to issue, amend, or rescind suitable regulations for carrying out the provisions of the proposed act. Under the provisions of section 314 anyone forcibly resisting, opposing, impeding, intimidating, or interfering with a member, agent, or employee of the Commission in the performance of his duties, or because of such performance, would be subject to a fine of not more than $500 or imprisonment for 1 year, or both.

Under the provisions of section 803 (a) of the bill, the Commission on Civil Rights, which would be created under the provisions of section 801, would be authorized to utilize to the fullest extent possible, the services, facilities, and information of other Government agencies, and the agencies would be directed to cooperate fully with the new Commission in this connection. While we have no objection to such a provision, we wish to point out, as we have previously done with respect to similar provisions in other proposed legislation, such as that proposing the establishment of a commission on area problems of the Greater Washington area, that this Commission would not be in a position with its

present staff and without additional funds, to furnish an unlimited amount of information, or to place its facilities and services at the unlimited disposal of the new Commission.

The other provisions of H. R. 702 do not pertain to the jurisdiction or functions of this Commission and for that reason we are not in a position, as hereinbefore stated, to offer any helpful suggestions or comments with respect thereto.

Respectfully submitted.

RICHARD F. MITCHELL,
Chairman, Committee on Legislation.
OWEN CLARKE.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, June 27, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: I refer to your request to the Secretary of Defense for the views of the Department of Defense with respect to H. R. 702, 84th Congress, a bill to protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin. The Secretary of Defense has assigned to the Department of the Air Force the responsibility for providing your committee with a report on this legislation on behalf of the Department of Defense.

The purpose of H. R. 702, as indicated in its title, is to protect the right of individuals to be free from discrimination or segregation by reason of race, color, religion, or national origin. Title I contains provisions for the better assurance of the protection of the citizens of the United States and other persons within the several States from mob violence and lynching, and for other purposes. Title II contains provisions to strengthen the protection of the individuals' rights to liberty, security, citizenship and its privileges. Title III prohibits discrimination in employment because of race, religion, color, natonal origin or ancestry. Title IV prohibits discrimination or segregation in the armed services. Title V eliminates segregation and discrimination in opportunities for higher and other education. Title VI makes unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers. Title VII prohibits segregation and discrimination in housing because of race, religion, color, or national origin, and title VIII establishes a Commission on Civil Rights in the executive branch of the Government.

With the exception of title IV, the questions involved in H. R. 702 are matters of broad public policy not of a primary concern to the Department of Defense. Therefore, the Department of the Air Force, on behalf of the Department of Defense, refrains from commenting on the merits of the proposed legislation.

With regard to title IV of H. R. 702, Executive Order 9981, July 26, 1948, declared it to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion, or national origin and directed that this "policy shall be put into effect as rapidly as possible having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale."

The Department of Defense has taken steps to assure compliance with Executive Order No. 9981 and it is the approved policy of the Department of Defense to provide equality of treatment and opportunity for all members of the Armed Forces. In view of the foregoing, it is believed that the enactment of title IV, H. R. 702, is unnecessary.

No additional cost to the Department of Defense will result from the enactment of the proposed legislation.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

DAVID S. SMITH,
Assistant Secretary of the Air Force.

APRIL 11, 1955.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CHAIRMAN CELLER: Your letter of February 25, 1955, requesting an expression of the Commission's views on a bill, H. R. 3585, introduced by Congressman Diggs, to protect the civil rights of individuals by establishing a Commission on Civil Rights in the executive branch of the Government, a Civil Rights Division in the Department of Justice, and a Joint Congressional Committee on Civil Rights, to strengthen the criminal laws protecting the civil rights of individuals, and for other purposes, has been referred to our committee on legislation. After careful consideration by that committee, I am authorized to submit the following comments in its behalf:

The purpose of H. R. 3585 is clearly indicated in its title, as quoted above. Most of its provisions do not pertain to the jurisdiction or functions of this Commission, but relate to matters upon which we are not qualified to express a helpful opinion based on our experience in the regulation of transportation. Our comments, therefore, shall be confined largely to those provisions which relate to transportation.

Section 102, title I, of the bill provides for the creation of a Commission on Civil Rights and, under the provisions of section 104 (a) thereof, the new commission would be authorized to utilize to the fullest extent possible, the services, facilities, and information of other Government agencies, and the agencies would be directed to cooperate fully with the new commission in this connection. While we have no objection to such a provision, we wish to point out, as we have previously done with respect to similar provisions in other proposed legislation, such as that proposing the establishment of a Commission on Area Problems of the Greater Washington Area, that this Commission would not be in a position, with its present staff and without additional funds, to furnish an unlimited amount of information, or to place its facilities and services at the unlimited disposal of the new commission.

Section 701 (a), title VII, of H. R. 3585 provides that all travelers "shall be entitled to the full and enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith * * * without discrimination or segregation based on race, color, religion, or national origin." Subsection (b) of section 701 would make it a misdemeanor for anyone, whether acting in a private, public, or official capacity, to deny or attempt to deny any traveler such accommodations, advantages, or privileges for any such reason, or to incite or participate in such denial or attempt, and provides penalties therefor, and other relief. Section 702 would similarly make it a misdemeanor for any such common carrier, or any officer, agent, or employee thereof to segregate or attempt to segregate or otherwise discriminate against passengers using any of its public conveyances or facilities on account of race, color, religion, or national origin, and would likewise provide penalties and other relief for violations.

Under section 3 (1) of the Interstate Commerce Act, it is now unlawful "for any common carrier * * * to make, give, or cause any undue or unreasonable preference or advantage to any particular person * * * or to subject any particular person * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." This provision relates principally to rail carriers. There are similar provisions in other parts of the act applicable to motor and water carriers and freight forwarders.

Soon after the Interstate Commerce Commission was established in 1887, it was called upon to decide whether the provision above quoted prohibited the railroads in certain sections of the country from requiring that Negro and white passengers occupy separate coaches and other facilities, as they were compelled to do by statutes in a number of States. In all such cases, which have become increasingly numerous and complicated in recent years, the Commission has limited its inquiry to the question whether equal accommodations and facilities are provided for members of the two races, adhering to the view that the Interstate Commerce Act neither requires nor prohibits segregation of the races.

In *Plessy* v. *Ferguson* (163 U. S 537 (1896)), the Supreme Court of the United States held that a Louisiana statute requiring railroads carrying passengers in their coaches in that State to provide equal, but separate, accommodations for the white and colored races in the form of separate or divided coaches was not in

conflict with the provisions of either the 13th or the 14th amendment to the Constitution of the United States. The Court concluded (pp. 550–551):

"* * * we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the 14th amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of State legislatures."

Earlier in that decision the Court had stated (p. 544):

"* * * Laws permitting, and even requiring their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally if not universally, recognized as within the competency of the State legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced."

In the recent decision of *Brown* v. *Board of Education* (347 U. S. 343 (1954)) and the related cases decided in the consolidated opinion of May 17, 1954, the Supreme Court quoted with approval the language of the Kansas district court as follows:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. This impact is greater when it has the sanction of the law, for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn * * *."

The court went on to say:

"Whatever may have been the extent of psychological knowledge at the time of *Plessy* v. *Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy* v. *Ferguson* contrary to this finding is rejected.

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

In Docket No. 31423, *National Association for the Advancement of Colored People et al.* v. *St. Louis-San Francisco Railway Company et al.*, which is now pending before the Commission, we are asked to rule whether the provision of separate but equal transportation facilities violates section 3 of the Interstate Commerce Act or the Constitution, and in Docket No MC–C–1564, *Sarah Keys* v. *Carolina Coach Co.*, which is also pending before the Commission, we are asked to rule whether such provision violates section 216 (d) of the act.

In view of the pendency of the above-mentioned proceedings, we believe it would be inappropriate for us to express any opinion in regard to the provisions of sections 701 or 702 of the bill.

Respectfully submitted.

RICHARD F. MITCHELL,
Chairman, Committee on Legislation.

OWEN CLARKE,
HOWARD G. FREAS

Mr. LANE. Now, is there any other witness who wishes to be heard on any of these bills? Are there any others present who would like to say anything on the bills which we are considering? If not, then, we will declare the hearings closed on all of these civil-rights bills, and we appreciate the attendance of all of these witnesses who have been kind enough and cooperative enough to submit statements to us and to testify before this committee.

(Thereupon, at 3:35 p. m., the subcommittee adjourned subject to the call of the Chair.)

CIVIL RIGHTS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH CONGRESS

SECOND SESSION

ON

LEGISLATION REGARDING THE CIVIL RIGHTS OF PERSONS WITHIN THE JURISDICTION OF THE UNITED STATES

EXECUTIVE SESSION

APRIL 10, 1956

PART 2

Printed for the use of the Committee on the Judiciary

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CIVIL RIGHTS

TUESDAY, APRIL 10, 1956

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

EXECUTIVE SESSION

The committee met, pursuant to notice, at 10 a. m., in room 346, Old House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler, Walter, Lane, Feighan, Frazier, Jones, Forrester, Rogers, Tuck, Ashmore, Quigley, Keating, McCulloch, Thompson, Hillings, Crumpacker, Miller, Taylor, Burdick, Curtis, Robsion, Hyde, Poff, and Scott.

Also present: Thomas Broden, counsel.

The CHAIRMAN. The meeting will come to order.

We have with us the distinguished Attorney General of the United States, Mr. Brownell.

I want to make a preliminary statement. Today we have before the full Judiciary Committee, H. R. 259 and H. R. 627, civil rights bills. (H. R. 259 and H. R. 627 are as follows:)

[H R. 259, 84th Cong., 1st sess]

A BILL To provide protection of persons from lynching, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 13 of title 18, U. S. C , is amended by adding the following sections:

"SEC 245. (a) This Act may be cited as the 'Federal Antilynching Act.'

"(b) The Congress finds that the succeeding provisions of this Act are necessary—

"(1) to insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution;

"(2) to safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials;

"(3) to promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, language, or religion, in accordance with the Constitution of the United States of America.

"SEC. 246. It is hereby declared that the right to be free from lynching is a right of all persons within the jurisdiction of the United States. Such right is in addition to any similar rights they may have as citizens of any of the several States or as persons within their jurisdiction.

"SEC. 247. (a) Any assemblage of two or more persons which shall, without authority of law, (1) commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, color, religion, or national origin, or (2) exercise or attempt to exercise, by physical violence upon any person or persons or on his or their property because of his or their race, color, religion, or national origin, any power of correction or punishment over any person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any criminal offense, with the purpose or conse-

quence of preventing the apprehension or trial or punishment by law of such person or persons, or of imposing a punishment not authorized by law, shall constitute a lynch mob within the meaning of this Act. Any such violence or attempt by a lynch mob shall constitute lynching within the meaning of this Act.

"(b) Any person whether or not a member of a lynch mob who willfully instigates, incites, organizes, aids, abets, or commits a lynching by any means whatsoever, and any member of a lynch mob, shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the wrongful conduct herein results in death or maiming, or damage to property as amounts to an infamous crime under applicable State or Territorial law. An infamous crime, for the purposes of this section, shall be deemed one which under applicable State or Territorial law is punishable by imprisonment for more than one year.

"SEC 248. (a) Whenever a lynching shall occur, any peace officer of a State or any governmental subdivision thereof, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

"(b) Whenever a lynching shall occur in any Territory, possession, District of Columbia, or in any other area in which the United States shall exercise exclusive criminal jurisdiction, any peace officer of the United States or of such Territory, possession, District, or area, who shall have been charged with the duty or shall have possessed the authority as such officer to prevent the acts constituting the lynching, but shall have neglected, refused, or willfully failed to make all diligent efforts to prevent the lynching, and any such officer who shall have had custody of the person or persons lynched and shall have neglected, refused, or willfully failed to make all diligent efforts to protect such person or persons from lynching, and any such officer who, in violation of his duty as such officer, shall neglect, refuse, or willfully fail to make all diligent efforts to apprehend or keep in custody the members or any member of the lynching mob, shall be guilty of a felony and, upon conviction, shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

"(c) For the purposes of this Act, the term 'peace officer' shall include those officers, their deputies, and assistants who perform the functions of police personnel, sheriffs, constables, marshals, jailers, or jail wardens, by whatever nomenclature they are designated."

SEC 2 The analysis at the beginning of chapter 13 of title 18 is amended by adding at the end thereof the following:

"245 Short title and findings of fact
"246 Right to be free from lynching.
"247 Lynching
"248 Failure to prevent lynching "

SEC 3 Subsection (a) of section 1201 of title 18 of the United States Code is amended to read as follows:

"§ 1201. Transportation

"(a) Whoever knowingly transports in interstate or foreign commerce, any person who has been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away and held for ransom or reward or otherwise, except, in the case of a minor, by a parent thereof, or whoever knowingly transports, or causes to be transported, in interstate or foreign commerce, any person unlawfully abducted and held because of his race, color, religion, or national origin, shall be punished (1) by death if the kidnaped person has not been liberated unharmed, and if the verdict of the jury shall so recommend, or (2) by imprisonment for any term of years or for life, if the death penalty is not imposed."

SEC 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

[H. R. 627, 84th Cong., 2d sess.]

A BILL To provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and parts according to the following table of contents, may be cited as the "Civil Rights Act of 1955."

TABLE OF CONTENTS

SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the civil rights of some persons within the jurisdiction of the United States are being denied, abridged, or threatened, and that such infringements upon the American principle of freedom and equality endanger our form of government and are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations. The Congress recognizes that it is essential to the national security and the general welfare that this gap between principle and practice be closed; and that more adequate protection of the civil rights of individuals must be provided to preserve our American heritage, halt the undermining of our constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that it is its purpose to strengthen and secure the civil rights of the people of the United States under the Constitution, and that it is the national policy to protect the right of the individual to be free from discrimination based upon race, color, religion, or national origin.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(i) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States, and to enforce the provisions of the Constitution.

(ii) To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials.

(iii) To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights

(d) To the end that these policies may be effectively carried out by a positive program of Federal action the provisions of this Act are enacted.

SEC. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE I—PROVISIONS TO STRENGTHEN THE FEDERAL GOVERNMENT MACHINERY FOR THE PROTECTION OF CIVIL RIGHTS

PART 1—ESTABLISHMENT OF A COMMISSION ON CIVIL RIGHTS IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

SEC 101 There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission"). The Commission shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in the office. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made Three members of the Commission shall constitute a quorum Each member of the Commission shall receive the sum of $50 per day for each day spent in the work of the Commission, together with actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10)

SEC 102 It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals under the Constitution and laws of the United States; to appraise the policies, practices, and enforcement program of the Federal Government with respect to civil rights; and to appraise the activities of the Federal, State, and local governments, and the activities of private individuals and groups, with a view to determining what activities adversely affect civil rights The Commission shall make an annual report to the President on its findings and recommendations, and it may in addition from time to time, as it deems appropriate or at the request of the President, advise the President of its findings and recommendations with respect to any civil-rights matter.

SEC 103 (a) The Commission may constitute such advisory committees and may consult with such representatives of State and local governments, and private organizations, as it deems advisable. The Commission shall, to the fullest extent possible, utilize the services, facilities, and information of other Government agencies, as well as private research agencies, in the performance of its functions. All Federal agencies are directed to cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(b) The Commission shall have authority to accept and utilize services of voluntary and uncompensated personnel and to pay such any personnel actual and necessary traveling and subsistence expenses incurred while engaged in the work of the Commission (or, in lieu of subsistence, a per diem allowance at a rate not in excess of $10)

(c) Within the limitations of its appropriations, the Commission is authorized to appoint a full-time staff director and such other personnel, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable.

PART 2—REORGANIZATION OF CIVIL RIGHTS ACTIVITIES OF THE DEPARTMENT OF JUSTICE

SEC 111 There shall be in the Department of Justice an additional Assistant Attorney General, learned in the law, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall, under the direction of the Attorney General, be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States

SEC. 112 The personnel of the Federal Bureau of Investigation of the Department of Justice shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil-rights cases under applicable Federal law Such Bureau shall include in the training of its agents appropriate training and instructions, to be approved by the Attorney General, in the investigation of civil-rights cases.

PART 3—CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON CIVIL RIGHTS

SEC. 121. There is established a Joint Committee on Civil Rights (hereinafter called the "Joint Committee"), to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the Joint Committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 122. It shall be the function of the Joint Committee to make a continuing study of matters relating to civil rights, including the rights, privileges, and immunities secured and protected by the Constitution and laws of the United States; to study means of improving respect for and enforcement of civil rights; and to advise with the several committees of the Congress dealing with legislation relating to civil rights.

SEC. 123. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

SEC. 124. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, as it deems advisable The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended (2 U. S. C. 192, 193, 194), shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section. Within the limitations of its appropriations, the Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistance, to procure such printing and binding, and to make such expenditures as, in its discretion, it deems necessary and advisable. The cost of stenographic services to report hearings of the Joint Committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words

SEC. 125. Funds appropriated to the Joint Committee shall be disbursed by the Secretary of the Senate on vouchers signed by the Chairman and Vice Chairman.

SEC. 126. The Joint Committee may constitute such advisory committees and may consult with such representatives of State and local governments and private organizations as it deems advisable.

TITLE II—PROVISIONS TO STRENGTHEN PROTECTION OF THE INDIVIDUAL'S RIGHTS TO LIBERTY, SECURITY, CITIZENSHIP AND ITS PRIVILEGES

PART 1—AMENDMENTS AND SUPPLEMENTS TO EXISTING CIVIL-RIGHTS STATUTES

SEC. 201. Title 18, United States Code, section 241, is amended to read as follows:

"SEC. 241. (a) If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same. or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise of enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If any person goes in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, such person shall be fined not more than $1,000 or imprisoned nor more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the injury or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged.

"(c) Any person or persons violating the provisions of subsections (a) and (b) of this section shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all proceedings under this subsection without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States "

SEC. 202. Title 18, United States Code, section 242, is amended to read as follows:

"SEC 242 Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects, or causes to be subjected, any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; or shall be fined not more than $10,000 or imprisoned not more than twenty years, or both, if the deprivation, different punishment, or other wrongful conduct herein shall cause the death or maiming of the person so injured or wronged."

SEC 203 Title 18, United States Code, is amended by adding after section 242 thereof the following new section.

"SEC. 242A The rights, privileges, and immunities referred to in title 18, United States Code, section 242, shall be deemed to include, but shall not be limited to, the following.

"(1) The right to be immune from exactions of fines, or deprivations of property, without due process of law.

"(2) The right to be immune from punishment for crime or alleged criminal offenses except after a fair trial and upon conviction and sentence pursuant to due process of law

"(3) The right to be immune from physical violence applied to exact testimony or to compel confession of crime or alleged offenses.

"(4) The right to be free of illegal restraint of the person.

"(5) The right to protection of person and property without discrimination by reason of race, color, religion, or national origin

"(6) The right to vote as protected by Federal law."

SEC 204. Title 18, United States Code, section 1583, is amended to read as follows·

"SEC 1583 Whoever holds or kidnaps or carries away any other person, with the intent that such other person be held in or sold into involuntary servitude, or held as a slave, or

"Whoever entices, persuades, or induces any other person to go on board any vessel or other means of transportation or to any other place within or beyond the United States with the intent that he may be made a slave or held in involuntary servitude, shall be fined not more than $5,000, or imprisoned not more than five years, or both "

PART 2—PROTECTION OF RIGHT TO POLITICAL PARTICIPATION

SEC 211 Title 18, United States Code, section 594, is amended to read as follows

"SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC 212. Section 2004 of the Revised Statutes (8 U. S. C. 31) is amended to read as follows:

"All citizens of the United States who are otherwise eligible by law shall be entitled to and allowed the same and equal opportunity to qualify to vote and to vote at any general, special, or primary election by the people conducted in

or by any State, Territory, district, county, city, parish, township, school district, municipality or other Territorial subdivision, without distinction, direct or indirect, based on race, color, religion, or national origin; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. The right to qualify to vote and to vote, as set forth herein, shall be deemed a right within the meaning of, and protected by, the provisions of title 18, United States Code, section 242, as amended, section 1979 of the Revised Statutes (8 U. S. C. 43), and other applicable provisions of law."

SEC. 213. In addition to the criminal penalties provided, any person or persons violating the provisions of section 211 of this part shall be subject to suit by the party injured, or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief. The district courts, concurrently with State and Territorial courts, shall have jurisdiction of all other proceedings under this section without regard to the sum or value of the matter in controversy. The term "district courts" includes any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), and the United States court of any Territory or other place subject to the jurisdiction of the United States.

PART 3.—PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN INTERSTATE TRANSPORTATION

SEC. 221. (a) All persons traveling within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, and privileges of any public conveyance operated by a common carrier engaged in interstate or foreign commerce, and all the facilities furnished or connected therewith, subject only to conditions and limitations applicable alike to all persons, without discrimination or segregation based on race, color, religion, or national origin.

(b) Whoever, whether acting in a private, public, or official capacity, denies or attempts to deny to any person traveling within the jurisdiction of the United States the full and equal enjoyment of any accommodation, advantage, or privilege of a public conveyance operated by a common carrier engaged in interstate or foreign commerce, except for reasons applicable alike to all persons of every race, color, religion, or national origin, or whoever incites or otherwise participates in such denial or attempt, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person or by his estate, in an action at law, suit in equity, or other proper proceeding for damages or preventive or delcaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

SEC. 222. It shall be unlawful for any common carrier engaged in interstate or foreign commerce, or any officer, agent, or employee thereof, to segregate, or attempt to segregate, or otherwise discriminate against passengers using any public conveyance or facility of such carrier engaged in interstate or foreign commerce, on account of the race, color, religion, or national origin of such passengers. Any such carrier or officer, agent, or employee thereof who segregates or attempts to segregate such passengers or otherwise discriminate against them on account of race, color, religion, or national origin shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed $1,000 for each offense, and shall also be subject to suit by the injured person in an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief. Such suit or proceeding may be brought in any district court of the United States as constituted by chapter 5 of title 28, United States Code (28 U. S. C. 81 et seq.), or the United States court of any Territory or other place subject to the jurisdiction of the United States, without regard to the sum or value of the matter in controversy, or in any State or Territorial court of competent jurisdiction.

The CHAIRMAN. These bills were reported favorably from subcommittee No. 2 presided over by our distinguished Member from Massachusetts, Mr. Lane.

H. R. 259 is an antilynching bill which makes it a crime for two or more persons to commit violence upon another because of his race, creed, color, or national origin.

H. R. 627 provides a general civil rights program, parts of which have been proposed to Congress by the present administration. H. R. 627 provides for a Civil Rights Commission in the executive branch of the Government. The administration proposes a similar Civil Rights Commission in the executive branch of the Government with subpena powers H. R. 627 provides for a Joint Congressional Committee on Civil Rights with subpena powers. There is no similar proposal in the administration's program. Both H. R. 627 and the legislation proposed by the administration provide an additional Assistant Attorney General to head a new Civil Rights Division in the Department of Justice. H. R. 627 also calls for additional FBI personnel to police civil rights cases. There is no similar provision in the administration bills

Title 18, United States Code, sections 241 and 242, are the basic criminal civil rights statutes presently on the books. H. R. 627 would tighten up these basic statutes by increasing penalties where death or maiming results from the violation of these basic civil rights statutes and also provides punishment for individual as well as conspiratorial action.

H. R 627 amends existing Federal protection of the right to vote by making clear that interference with the right to vote at special and primary, as well as general elections is punishable, makes clear that all Federal civil remedies are available to those deprived of the right to vote, and adds a new civil remedy by the Attorney General to protect the right to vote The administration has submitted no bills on this subject but it is assumed that it supports legislation identical to those provisions in H. R 627 which provide protection for the right to vote. The administration also suggests consideration of legislation to give the Attorney General a right of action for violations of title 42, United States Code, section 1985. This would be in addition to the existing civil actions which are now provided to the persons injured by violations of title 42 United States Code, section 1985 There is no comparable provision in H. R. 627.

Finally, H. R. 627 prohibits segregation or other discrimination in interstate transportation. There is no provision for this in the administration's proposed civil rights legislation

It is clear, then, that practically all of the administration program—certainly all of the important aspects of the administration program—are included in H. R. 627 in a little different language. In the interest of expediting civil rights legislation, I am agreeable to incorporating in H. R. 627 the exact language proposed by the administration for their counterparts in H. R. 627. Of course, in addition to this, H. R. 627 has many more provisions and, in my opinion, offers a much more effective and complete civil rights program. Also, H. R 259, an antilynching bill, is before the full committee. We will be glad to hear the views of the Honorable Herbert Brownell, Jr., Attorney General of the United States, on H. R. 627, H. R. 259, and civil rights legislation in general.

STATEMENT OF HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES; ACCOMPANIED BY WARREN OLNEY III, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION; AND ARTHUR CALDWELL, CIVIL RIGHTS SECTION, DEPARTMENT OF JUSTICE

The CHAIRMAN. Mr. Attorney General, this is, as you know, an executive session of the committee, primarily called to hear the bills as they are reported from the subcommittees I have indicated. Ordinarily, we do not have a reporter present. There is a reporter present, but if you object to the reporter he will not take notes. But if he takes notes, they will not be made public. If that is agreeable with you, the reporter may remain.

Attorney General BROWNELL. Either way.

The CHAIRMAN. We will now be very happy to hear from you, Mr. Attorney General.

Mr. FORRESTER. Just 1 minute, Mr. Chairman. Do I understand that this testimony will be made a part of the record and be made available to Members?

The CHAIRMAN. It will be available to Members, of course. This is an executive session. And if the Attorney General wishes it be made public, I think we could make it public. But I didn't want to do that without the Attorney General's knowledge and consent.

Attorney General BROWNELL. That is all right with me.

Mr. FORRESTER. Of course, I have no objection to it being made public, but I do not want to be bound in any way, shape, or form to not using this when we get on the floor. That is all I wanted to say

The CHAIRMAN. I think the Attorney General indicated that he has no objection to it being made public, so it will be open to everybody.

Is that agreeable?

Attorney General BROWNELL. Surely.

Mr. MILLER. May I make one comment, Mr. Chairman?

The CHAIRMAN. Yes, sir.

Mr. MILLER. I notice the chairman said this was an executive session, and normally the procedure would be followed of taking testimony concerning only the bills as reported out by the subcommittee. However, as the chairman of the subcommittee, Mr. Lane, will recall, I voted in favor of the civil rights bills in order to bring them before the subcommittee, but under the agreement—and I believe it was unanimous—there would be no action taken by this full committee until the Attorney General had the opportunity to submit his views on civil rights legislation, not necessarily in relation to the bills reported out, but in general, his views and opinions concerning this overall matter of civil rights.

The CHAIRMAN. Yes. You may remember I did say that we would be very glad to hear him on those two bills and civil rights legislation in general.

Mr. LANE. May I say that Congressman Miller voted on these bills before us with the understanding that the Attorney General and his staff would have an opportunity to send up whatever messages they wanted and testify concerning them.

Mr. ROGERS. I have a point of parliamentary inquiry. Has the subcommittee reported to this full committee any particular piece of legislation?

The CHAIRMAN. They have sent it to the committee. They have not formally reported it, as yet, but they are prepared to do that this morning.

Mr. ROGERS. And rather than making the recommendation as to passage to this committee, they have taken this method of having the Attorney General come before the committee, the full committee, and explain the administration views?

The CHAIRMAN. That is correct.

Mr. Miller indicated that his vote was conditional, he voted for the bill with the understanding that we would hear the administration views from the Attorney General.

Mr. ROGERS. Another parliamentary inquiry. Are all of these bills before the full committee without a report from the subcommittee?

The CHAIRMAN. As of this moment. But if Mr. Brownell hadn't appeared this morning, the ordinary procedure would have been to hear from Mr. Lane, the chairman of the subcommittee, who is prepared to report favorably these bills. But some of the members of the subcommittee said they wanted to hear the administration views before any action was taken on these bills.

Mr. ROGERS. To all intents and purposes the bills are before the full committee for consideration, regardless of what the Attorney General may or may not say, is that correct? That is a parliamentary inquiry.

The CHAIRMAN. We will hear momentarily from the subcommittee after Mr. Brownell concludes.

Mr. ROGERS. Then we, as members of the full committee, are sitting in aid to the subcommittee to help them determine whether or not—the two gentlemen have indicated that they were willing to bring them out here so that we could hear from the Attorney General. Now, when we hear from the Attorney General, is it the thought of the two gentlemen who voted to bring it out here before the full committee that the full committee now has jurisdiction to act with or without recommendation from the subcommittee? That is the point I am trying to make.

The CHAIRMAN. What the members of the subcommittee had in mind when they reported the bills favorably is a matter for them. But the subcommittee ordered these two bills reported favorably. And as a matter of courtesy, I think, to the men who made that request, and to the Attorney General, we ought to hear them.

Mr. FORRESTER. Mr. Chairman, I think we ought to get this matter clear. The gentleman from New York has stated this exactly as it was. There seems to be some confusion that there were two members who voted upon this legislation with the idea that they are going to hear from the Attorney General. If my memory serves me correctly—and I will ask the gentleman from New York—I think it was unanimously agreed that we were going to hear from the Justice Department. I know that I joined in that request—as a matter of fact, I think I am the man who made the motion. I will ask the gentleman from New York if that isn't correct.

Mr. MILLER. That is right.

Mr. FRAZIER. Mr. Chairman, I notice from the press that the Attorney General would possibly submit some bills that the Justice Department was personally interested in.

The CHAIRMAN. The Speaker of the House and the Vice President on the Senate side have received Executive communications concerning these bills. Whether they have been offered——

Mr. KEATING. I offered both bills sent up with the Executive communication.

Mr. MILLER. Mr. Keating offered them yesterday, and I intend to offer them this afternoon.

Mr. KEATING. Mr. Scott also offered them.

Mr. ROGERS. These bills are not before this full committee.

Mr. MILLER. No, but it is in order to offer them as a substitute.

The CHAIRMAN. They could be offered as a substitute.

Mr. FORRESTER. I would like to inquire now, Are we going to depart from our usual rule? Is Subcommittee No. 2 going to be deprived from conducting hearings on any of these bills that are offered? Are we going to throw those before the full committee at once?

The CHAIRMAN. There is no reason why the full committee cannot consider the matter, or as Mr. Miller said, offer the bills by way of amendments to the bills before us, or substitutes for the pending bills.

Mr. FORRESTER. The reason I am asking that, I have no idea of what those bills are, and I don't think any other members have, except 2 or 3.

Mr. MILLER. If we allow Mr. Brownell to proceed I think we will know.

The CHAIRMAN. Yes, we will know.

I think you might proceed, Mr. Attorney General.

Attorney General BROWNELL. Mr. Chairman, ladies and gentlemen——

The CHAIRMAN. Have you submitted a copy of your statement to the members?

Attorney General BROWNELL. I have a copy here, if you would like to follow it, Mr. Chairman.

I have here with me this morning, for the information of the committee, Mr. Warren Olney, who is the Assistant Attorney General in charge of the Criminal Division of the Department of Justice, and Mr. Arthur Caldwell, who is the head of the Civil Rights Section.

The CHAIRMAN. You are both welcome, gentlemen.

Attorney General BROWNELL. In his state of the Union message you will remember that the President said that his administration would recommend to the Congress a program to advance the efforts of the Government, within the area of Federal responsibility, to the end that every person may be judged and measured by what he is, rather than by his color, race, or religion. And so yesterday, following up that state of the Union message, I transmitted, as the chairman has already mentioned, to the Speaker of this House and to the President of the Senate, our proposals on this subject.

This letter to the Speaker mentions four matters. First, a recommendation for the creation of a bipartisan Commission on Civil Rights along the lines described by the President in his state of the Union message; and second, as I will more fully describe, the creation of an additional Assistant Attorney General who would head up a Civil

Rights Division in the Department of Justice. And then there were two other proposals.

The third is an amendment of the existing statutes to give further protection to the right to vote and to add civil remedies in the Department of Justice for their enforcement. And I would like to take up these four proposals in that order.

The first has to do, as I said, with the President's recommendation for the creation of a bipartisan Civil Rights Commission. The President's exact language was this:

> It is disturbing that in some localities allegations persist that Negro citizens are being deprived of their right to vote and are likewise being subjected to unwarranted economic pressures. I recommend that the substance of these charges be thoroughly examined by a bipartisan commission created by the Congress.

The bill which we submitted to the Speaker on this subject provides that this proposed bipartisan Commission should have six members, and they would be appointed by the President with the advice and consent of the Senate. The bill also provides that no more than 3 members of these 6 should come from the same political party.

It provides that the Commission would be a temporary Commission, expiring 2 years after the effective date of the statutes unless extended by the Congress. And it would have the power to subpena witnesses and take testimony under oath and request necessary data, of course, from any executive department or agency.

And it would have the authority to make interim reports before it makes its comprehensive final report containing any findings and recommendations that it may decide upon.

Also, as might be expected, the Commission would have authority to hold public hearings, and its main purpose would be to investigate these allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their race, color, religion, or national origin. And we provide in the bill that is submitted for your consideration that the Commission would study and collect information concerning economic and social and legal developments constituting a denial of the equal protection of the laws, and that it would appraise the policies of the Federal Government with respect to the equal protection of the laws under our Constitution.

Now, it seems to me, Mr. Chairman, that the need for more knowledge and greater understanding of this very complex problem is quite clear. And we believe that a full-scale public study conducted over this 2-year period by a competent bipartisan commission, as recommended by the President, will tend to unite people of good will, responsible people in all parts of the country in a common effort to solve the problem.

We think it would bring a clearer definition of the constitutional boundaries between the States and the Federal Government, and that it would almost insure that some remedial proposal would be brought forward within these appropriate areas of Federal and State responsibility.

And we think, finally, that through a greater public understanding of these matters the Commission would chart a course of progress which would guide the Nation in the years ahead.

For a study such as that proposed by the President, the authority to hold public hearings and subpena witnesses and take testimony

under oath, is obviously essential to reaching that kind of a conclusion. And I would point out that at the present time there is no agency in the executive branch of the Government that has such wide powers to study matters relating to these aspects of civil rights.

Accordingly, those are the reasons for submitting to you the proposal, our first proposal, for the creation of the bipartisan Commission in this area.

Now, our second proposal has to do with the organizational setup and authority of the Department of Justice in these matters. And I would introduce this proposal by saying that it was in 1939——

The CHAIRMAN. Mr. Attorney General, some of the members may want to ask questions. Would you care to be interrupted, or would you want them to wait until the conclusion?

Attorney General BROWNELL. Well, I suppose you might say the proposals are interrelated. I think it might be more orderly to wait until I get through the prepared statement, if that is satisfactory.

On the second proposal I started by saying that it was 1939 that there was set up in the Department of Justice a Civil Rights Section in the Criminal Division. And its function has been to direct and supervise and conduct criminal prosecutions for violations of the Constitution and the laws guaranteeing civil rights. And as long as its activities were confined to the enforcement of criminal laws it was quite logical that it should be a section of the Criminal Division.

But I would point out that recently the Justice Department has been obliged to engage in activity in the civil rights field which is noncriminal in character. For example, I point out the recent participation of the Department as a friend of the court in a civil suit to prevent by injunction, unlawful interference with the efforts of the school board at Hoxie, Ark., to eliminate racial discrimination in the school in conformity with the Supreme Court's decision. Now, this noncriminal activity of the Department in the civil rights field is constantly increasing in importance as well as in amount by reason of the recent Supreme Court decision.

So that if my recommendations—which I will come to in my third and fourth points—for legislation which would provide civil remedies in the Department of Justice for the enforcement of certain civil rights are followed, I think it is quite obvious to you that the activities in the Department of Justice in the civil courts, as distinguished from the criminal area, will increase even more rapidly than it is at the present time.

So we think that it is quite important that all of the Department's civil rights activities, both criminal and noncriminal, should be consolidated in a single organization and unit, and that it is not appropriate any more to have this activity in the Criminal Division.

So that we recommend as our second point that there should be authorized by the Congress, the appointment of a new Assistant Attorney General in order to permit the proper consolidation and organization of the Department's criminal and civil activities in the area of civil rights under a new division which we would call the Civil Rights Division under the direction of a highly qualified lawyer with the status of an Assistant Attorney General. And we have submitted, as the chairman pointed out, to the Speaker of the House and the President of the Senate, a draft of a brief statute which would give us this authorization.

Our third proposal would give—the purpose of it is to give greater protection to the right to vote, and to provide civil rather than criminal remedies in the Department of Justice for their enforcement. I don't need to tell this committee that the right to vote is one of our most precious rights, in fact, it is the cornerstone of our Government, and it affords protection to all of our other civil rights, and accordingly, because of its importance it must be zealously safeguarded.

Article I, sections 2 and 4, of the Constitution place in the Congress the power and the duty to protect by appropriate laws elections for office under the Government of the United States. And with respect to elections for State and local offices, you will recall that the 15th amendment to the Constitution provides that the right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State on account of race, color, or previous condition of servitude. And the 14th amendment, of course, prohibits any State from making or enforcing laws which abridge the privileges and immunities of citizens of the United States and from denying any person the equal protection of the laws.

The courts have held that these prohibitions operate against election laws which discriminate on account of race, color, religion, or national origin.

Now, you will remember, also, that to implement these provisions of the Constitution, Congress passed—many years ago, it is true—a voting statute which provides that all citizens shall be entitled and allowed to vote in all elections, State or Federal, without distinction based on race or color. That is section 1971 of title 42 of the code. And it was the duty of Congress under the Constitution and its amendments to pass legislation giving full protection to the right to vote, and undoubtedly, it was the intent of Congress to provide such protection by this section 1971.

But in the years that have intervened since the time that that law was put on the statute books, we have noticed that a number of serious defects have become apparent, most of which have been pointed out in decisions of the courts. The most obvious one of these defects in the law is that it does not protect the voters in Federal elections from unlawful interference with their voting rights by private persons—in other words, 1971 applies only to those who act "under color of law" which means public officials, and the activities of private persons and organizations designed to disenfranchise voters in Federal or State elections on account of race or color are not covered by the present provisions of 1971. And so we say that the statute fails to afford the voters full protection from discrimination which was contemplated by the Constitution, especially the 14th and 15th amendments.

Also, this section 1971 is defective in another respect, because it fails to lodge in the Department of Justice and the Attorney General any authority to invoke civil remedies for the enforcement of voting rights. And it is particularly lacking in any provision which would authorize the Attorney General to apply to the courts for preventive relief against the violation of these voting rights.

And we think that this is also a major defect. The ultimate goal of the Constitution and the Congress is the safeguarding of the free exercise of the voting right, acknowledging, of course, the legitimate power of the State to prescribe necessary and fair voting qualifications.

And we believe that civil proceedings by the Attorney General to stop any illegal interference and denial of the right to vote would be far more effective in achieving this goal than the private suits for damages which are presently authorized by the statute, and far more effective than the criminal proceedings which are authorized under other laws which, of course, can never be used until after the harm has been actually done.

No preventive measures can be brought under the criminal statutes. So I think—and I believe you will agree with me—that Congress should now recognize that in order to properly execute the Constitution and its amendments, and in order to perfect the intended application of the statute, section 1971 of title 42, United States Code, should be amended in three respects:

First, by the addition of a section which will prevent anyone, whether acting under color of law or not, from threatening, intimidating, or coercing an individual in his right to vote in any election, general, special, or primary, concerning candidates for Federal office.

And second, to authorize the Attorney General to bring civil proceedings on behalf of the United States or any aggrieved person for preventive or other civil relief in any case covered by the statute.

And third, an express provision that all State administrative and judicial remedies need not be first exhausted before resort to the Federal courts.

And then, my fourth point: In attempting to achieve this constitutional goal of respect for an observance of the civil rights of individuals it has been, in my opinion, a mistake for the Congress to have relied so heavily upon the criminal law and to have made so little use of the more flexible and often more practical and effective processes of the civil courts. You will remember that under the present statutes the Attorney General can prosecute after the violation of the civil-rights law has taken place. But he cannot seek preventive relief in the courts when violations are threatened or, in spite of an occasional arrest or prosecution, are persistently repeated.

Criminal prosecution can never begin until after the harm is done, and it can never be invoked to forestall a violation of civil rights no matter how obvious the threat of violation may be.

And another point. Criminal prosecution for civil-rights violations, when they involve State or local officials, as they often do, stir up an immense amount of ill feeling in the community and inevitably tend to cause very bad relations between State and local officials on the one hand, and the Federal officials responsible for the investigation and prosecution on the other. And we believe that a great deal of this could be avoided, and should be avoided if Congress would authorize the Attorney General to seek preventive relief from the civil courts in these civil-rights cases.

Now, in order to get this point of view across, let me give you an illustration or two as to what we think would be accomplished by this proposal.

In 1952 there were several Negro citizens in a certain county in Mississippi who submitted affidavits to the Department of Justice alleging that because of their race the registrar of voters refused to register them. Although the Mississippi statutes at that time required only that an applicant be able to read and write the Constitution, these affidavits alleged that the registrar demanded that the

Negro citizens answer such questions as "What is due process of law?" which, as the members of this committee know is a pretty difficult question. And they also alleged in the affidavits that they were asked the question, "How many bubbles in a bar of soap?" Well, those submitting these affidavits included college graduates, teachers, businessmen, yet, none of them, according to these tests laid down by the registrar, according to the affidavits, could meet the voting requirements.

Now, we believe that if the Attorney General had the power to invoke the injunctive process that the registrar could have been ordered to stop these discriminatory practices and qualify these citizens according to Mississippi law without having to go to the criminal process.

Just one other illustration, if I have time, Mr. Chairman. The United States Supreme Court recently reversed the conviction of a Negro who had been sentenced to death by the State court because of a showing that Negroes had been systematically excluded from the panels of the grand and petit juries that had indicted and tried him. Now, in doing this, the Supreme Court stated that according to the undisputed evidence that it had in the record before it, this systematic discrimination against Negroes in the selection of jury panels had persisted for many years past in the county where the case had been tried, and in its opinion the Court mentioned parenthetically but pointedly that such discrimination was a denial of equal protection of the laws and it would follow that it was a violation of the Federal civil-rights laws.

So the Department of Justice had no alternative except to institute an investigation to determine whether, in the selection of jury panels in the county in question, the civil-rights laws of the Federal Government were being violated, as suggested by the record before the Supreme Court.

Now, the point I would like to make is this: that the mere institution of this investigation aroused a storm of indignation in the county and State in question. And that is understandable, since if such violations were continuing the only course open to the Government was criminal prosecution of those responsible, and that might well have meant the indictment in the Federal court of the local court attachés and others responsible under the circumstances.

I may point out, however, in this particular illustration fortunately the Department was never faced with this disagreeable task, because the investigation showed that whatever the practice may have been in prior years, in recent years there has been no discrimination whatever against Negroes in the selection of juries in that county. And so when we found that out in our investigation the case was closed.

But suppose, on the other hand, the investigation had shown that there was discrimination, and the necessarily resulting prosecution would have stirred up such dissension and ill will in the community and the State that it might very well have done more harm than good. And such unfortunate collisions in the criminal courts between Federal and State officials can be avoided if the Congress would authorize the Attorney General to apply to the civil courts for preventive relief in civil-rights cases, we believe.

In such a civil proceeding the facts can be determined, the rights of the parties adjudicated, and future violations of the law prevented by order of the court without having to subject State officials to the

indignity, hazards, and personal expense of a criminal prosecution in the courts of the United States.

Congress could authorize the Attorney General to seek civil remedies in the civil courts for the enforcement of civil rights by a simple amendment to section 1985 of title 42, United States Code. At the present time that statute authorizes civil suits by private persons who are injured by acts done in furtherance of a conspiracy to prevent officers from performing their duties, to obstruct justice, or to deprive persons of their rights to the equal protection of the laws and equal privileges under the laws.

So we think that a subsection could be added to that statute which would give authority to the Attorney General to institute a civil action for preventive relief whenever any person is engaged or about to engage in acts or practices which would give rise to a cause of action under the present provisions of the law.

I think it would be simpler, I think it would be more flexible, and I think it would be more reasonable, and I think it would be more effective than the criminal sanctions which are the only remedy now available.

Now, Mr. Chairman, you suggested that I might comment on certain other proposals relating to civil rights now pending before the committee. And I would only comment to this extent, that I think the members of this committee will agree with me that there is grave doubt as to whether it is wise to propose at the present time any further extension of the criminal law into this extraordinarily sensitive and delicate area of civil rights. And because of this doubt, and because of my conviction that I tried to express to the committee earlier as to the importance of civil remedies in this field, we are not proposing to you, at this time, any amendments to section 241 and section 242 of title 18 of the code, which, as you know, are the two principal criminal statutes intended for the protection of civil rights.

I will say this, however, that whether the present moment is appropriate for such legislation is, of course, a question for Congress to decide, and also, that it must be conceded that—all questions of timeliness aside, and considered strictly from a law-enforcement standpoint—I must point out that both of these statutes have defects.

Now, I observed that H. R. 627 would amend both of these sections, 241 and 242. And so I will make a suggestion or two as to how, strictly from a law-enforcement standpoint, these statutes could be improved.

First, section 241 of title 18, United States Code, makes it unlawful for two or more persons to conspire—

to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same.

You will note that the statute fails to penalize such an injury when it is committed by a single individual, which not infrequently occurs. And this should be corrected if you are going to amend section 241. And if you are going to amend 241, I think the word "citizen" should be changed to "person" and the words "right or privilege secured to him by the Constitution" should be changed to "right, privilege or immunity secured or protected by the Constitution."

The CHAIRMAN. Section 201 of H. R. 627 makes most of those improvements in section 241.

Attorney General BROWNELL. Fine.

In this one, also, the phrase "right or privilege secured to him by the Constitution" should be changed to "right, privilege or immunity secured or protected by the Constitution." The purpose of that is obvious.

And third, I would say that a possibility there was that the penalty in ordinary cases may be left as it is, as an misdemeanor, but you might well consider whether any substantial penalties should be provided for this kind of conduct which results in maiming or death.

Then, so far as 242 is concerned, we think that the amendment of this particular statute——

The CHAIRMAN. When there is maiming or death, that increased penalty is provided in H. R. 627.

Attorney General BROWNELL. That has already been embodied.

On 242, Mr. Chairman, we think that the amendment of that particular section would be so complicated that we don't recommend it at the present time, because you will remember that the leading case under this section was the case of *Screws* v *United States* where the statute that was upheld by a very closely divided court, and only, as the court put it, because of the construction that the court placed on this word "willfully." Yet, it was that very construction placed on the word by the court that causes the most serious practical difficulties in the enforcement of the statute, and there certainly wouldn't be much point in amending it unless you changed that word "willfully." But we do think that if you did it would jeopardize the constitutionality of the entire statute. So we are not recommending any change in 242 at the present time.

That represents our viewpoint, Mr. Chairman, in this area of civil rights as of the present time. If there are any questions and I am able to answer them, I will try to do so.

The CHAIRMAN. I want to ask you this, Mr. Attorney General. Do you support what is known as part 2 of title II entitled "Protection of Right to Political Participation" as the same is worded in H. R. 627 in general?

Attorney General BROWNELL. In part 2?

The CHAIRMAN. Beginning at page 14, lines 15 and 16 of H. R. 627.

Attorney General BROWNELL. 204?

The CHAIRMAN. Section 211, part 2, page 14. It substantially covers your recommendations for amendments to Federal laws protecting the right to vote.

Attorney General BROWNELL. Well, I prefer the civil remedies myself, Mr. Chairman. This would amend the criminal remedies; am I correct in that?

The CHAIRMAN. Yes. There is a civil remedy on the bottom of page 15, section 213.

Mr. FORRESTER. May I interrupt there? I don't think the various members have copies of that bill, 627. But they are incorporated in the record.

The CHAIRMAN. They have copies.

Will the clerk suppy Mr. Forrester with a copy?

In addition section 213 provides for a civil remedy.

Attorney General BROWNELL. Civil remedy by private persons I believe.

The CHAIRMAN. Yes; and by the Attorney General.

Attorney General BROWNELL. We prefer the power to sue by the Attorney General. We think the authority for the private person to sue is not nearly as effective because of the conditions that sometimes exist in the communities.

The CHAIRMAN. On page 16, line one:

> The provisions of sections 211 and 212 of this part shall also be enforceable by the Attorney General in suits in the district courts for preventive or declaratory or other relief—

H. R. 627 has that, and in addition, we have a provision for suit by private persons. So I take it that you would prefer to have it limited to action by the Attorney General.

Attorney General BROWNELL. I don't say we should have it limited, but that would be the most effective part of it.

Mr. KEATING. May I ask a question which might clear up the point the chairman is making?

The CHAIRMAN. Yes.

Mr. KEATING. In your communications, Mr. Attorney General, to the Speaker of the House and the Vice President enclosing two specific bills, you made these other recommendations and urge a consideration by the Congress and the proposed bipartisan commission of three specific changes. I wanted to ask you whether you had in legislative form or could get in legislative form the specific recommendations which you made in your letter as an aid to this committee. In general I am in accord with your recommendations, and I would like to put them into legislative form if we could have your assistance in that regard.

Attorney General BROWNELL. We could do that very easily, Mr. Congressman, and we would be very happy to do that.

Mr. WALTER. Let me ask a question. It seems to me that the legislation in this field is predicated on the knowledge of existing circumstances. That being the fact, I can't understand, in your statement on page 3, the first paragraph:

> It will investigate the allegations that certain citizens of the United States are being deprived of their right to vote—

and so on—that says, "allegations." Well, doesn't that indicate that it is not a fact, and it seems to me, if I am correct in my thinking, that we should set this whole subject aside for the period of 2 years and await the report of this Commission.

The CHAIRMAN. You would certainly be in favor of the first step of appointing the Commission; would you not?

Mr. WALTER. Yes.

I would like to know this. Do I understand you to mean that we should not legislate until this Commission has completed its study?

Attorney General BROWNELL. Let me put it this way, Congressman. We think there should be immediate action on the bills to create the Commission and to set up the new Assistant Attorney General. I don't see how anybody really, all things considered, would want to oppose those at the present time.

Now, as to these other proposals that we make, I personally feel that they should be passed now. We have said in our communication to the Speaker that this is for the consideration of the Congress and of the bipartisan Commission. We naturally leave it up to you as to how to do that. I think that the need for them has been suf-

ficiently demonstrated, so that I would be happy to see the Congress pass all of these proposals at the present time.

The CHAIRMAN. You said "personally."

Attorney General BROWNELL. Yes.

The CHAIRMAN. You speak for the administration, do you not?

Attorney General BROWNELL. Yes. I think I am authorized to say, as the letter in fact points out, that these are submitted for the consideration of Congress. I also say that if the Congress doesn't pass them at this session, important as we think they are, then we certainly want them considered by the Commission.

Mr. ROGERS. Mr. Chairman, do I understand that the resolution suggested for setting up this Commission has been introduced to Congress?

The CHAIRMAN. It is in H. R. 627.

Mr. Attorney General——

Attorney General BROWNELL. If I may interrupt, Mr. Chairman, I believe there is a separate proposal for the Commission that is in the exact form which the administration has submitted to Congress.

The CHAIRMAN. May I ask this, Mr. Attorney General: As I take it, your specific proposals concern mainly restrictions on the right to vote, discrimination as to race, color, or creed with reference to voting, you do not touch specifically any recommendations as to discrimination in transportation, discrimination in the matter of education, and so forth; is that correct?

Attorney General BROWNELL. I would make this comment on that, Mr. Chairman. In the field of transportation, you will remember that the Department of Justice last year filed a brief with the Interstate Commerce Commission supporting the proposition that there should be no discrimination based on color in interstate transportation, and the Interstate Commerce Commission came down with such an order, and very substantial progress has been made in eliminating that discrimination since the ICC decision. It is working pretty well, and we think that it would be perfectly proper to—since we have this new situation with an ICC order—to allow that order to be enforced, and that at least at the present time from a law-enforcement standpoint we can't see any need of further legislation in the field of public transportation.

The CHAIRMAN. That interpretation does not refer to airlines or water transportation, however, does it?

Attorney General BROWNELL. I think the principle of it does; yes.

The CHAIRMAN. While the air carriers are not guilty of discrimination of any sort, there is no interpretation of that act in respect to them.

Attorney General BROWNELL. Mr. Olney reminded me that we have not received any complaints of discrimination in carriage by air. As far as we know, there has been no attempt to discriminate in air transportation. But I believe the principle of the ICC decision would apply.

Would you agree with me that it applies there as much as it does in bus and train transportation?

The CHAIRMAN. Let us proceed to another area. Take the case of telephone companies south of Baltimore, Md., where no people of the colored race are employed. There is clearly a discrimination. Suppose the Department wanted to get at that. How would you do it?

Attorney General BROWNELL. I would call attention to the fact that under the auspices of the President's Commission—it is headed by the Vice President now—in this area of employment very substantial progress has been made in eliminating discriminatory practices on the part of any person or corporation which is contracting with the Federal Government. And we have found that there has been voluntary compliance—the educational program put on by the Commission and the work sessions that are held with the employers and employees have resulted in very substantial progress. And that, of course, is the most sensible and the first line of activity in this whole field of discrimination, to endeavor, by education and voluntary effort, to eliminate it.

The CHAIRMAN. Then your idea is to let those phases of discrimination take their course voluntarily, rather than to get at them by legislation?

Attorney General BROWNELL. So long as substantial progress is being made.

The CHAIRMAN.—For example, as I understand it, the State of South Carolina has a statute making it unlawful to employ colored and white employees in the same room in the textile industry, and providing that any citizen of a county could sue the offending company that disregarded that statute and collect damages. That is title 40, section 452 of the Code of Laws of South Carolina, 1952, dealing with separation of employees of different races in the cotton textile industry.

How would your proposal get after discrimination of that sort?

Attorney General BROWNELL. Well, if I get that situation, Mr. Chairman, if the statute is invalid under the Federal Constitution, then it has no force and effect.

The CHAIRMAN. That is, you would not recommend legislation to remedy that evil, if you call it an evil, but rather would require an individual to test that statute in the State or Federal courts and eventually go to the Supreme Court to test its constitutionality?

Attorney General BROWNELL. I think, if you would accept our recommendation for civil authority for the Attorney General to move in an area where civil rights are being violated, that we would have a pretty effective way of combating that.

The CHAIRMAN. The same answer would apply to the question that would arise, I presume, in Virginia, where the State seeks to abolish public schools. As I understand it, the State would give allowances to white parents to help them defray the expenses of their children by way of the payment of tuition in so-called exclusively white private schools. I take it, then, the only way to get at that evil, if you would call it such, would be, as you say, to test it in the courts, and to go up to the Supreme Court eventually to determine whether the statute was constitutional.

Attorney General BROWNELL. I think in the legal field that is true. There is also hope that public education and discussion will help. But in the legal field, if the Supreme Court decision is not complied with in any particular area, it would have to go up to the Court for a test case.

The CHAIRMAN. I imagine there will develop all sorts of statutes resutling from the desegregation cases in the courts.

Attorney General BROWNELL. We believe that there will be a substantial increase of litigation in that area, and that is one of the reasons back of our proposal that the new Civil Rights Division in the Department of Justice be created.

The CHAIRMAN. The approach would have to be different, depending upon the statute?

Attorney General BROWNELL. Well, I think that is right. In the school area, for example, the Supreme Court has given certain authority to the district courts to pass on plans, which you don't have to do in some of the other civil rights areas.

The CHAIRMAN. Wouldn't that be more or less of a surrender by the legislative branch to the judicial branch to bring about relief?

Attorney General BROWNELL. I think whatever the Supreme Court ordered on that is the law of the land.

The CHAIRMAN. In other words, you recommend, or rather your idea is, that we let that alone as far as implementing the desegregation case by legislation is concerned.

Attorney General BROWNELL. On the contrary, as I pointed out in my statement, Mr. Chairman, we have already intervened as friends of the court in the first test case that is coming up in this matter. We are trying to help the Board of Education at Hoxie, Ark., with its plan to put into effect immediate integration there in the public schools.

The CHAIRMAN. Of course, that kind of approach involves lack of uniformity. There would be different situations that would develop in many parts of the country.

Attorney General BROWNELL. I think the Supreme Court recognized that point in its opinion.

The CHAIRMAN. And I take it the same approach would apply in the case where employees are hired or fired as a result of their race or or color; it would be the same situation?

Attorney General BROWNELL. No. I think, Mr. Chairman, as I have tried to point out, there is a distinction between the educational problem, the school problem, and some of these other areas, such as the area of employment. The Supreme Court formula in the school case is different than any other area in the enforcement of Supreme Court statutes, to the best of my knowledge.

The CHAIRMAN. What I am getting at is this: By Executive order we formerly had an FEPC. It was never imbedded in the statutes. Would you discourage any kind of statute that would have for its purpose the setting up of an FEPC?

Attorney General BROWNELL. The proposal in this area—which we think has worked pretty well—is that the administration is to go forward in this area of discrimination in employment by means of this committee that is headed by the Vice President at the present time, and which has made such wonderful progress in the elimination of discrimination in employment. And that has proved more effective, I think, than any abortive attempts that have been made at compulsory legislation.

The CHAIRMAN. Regardless of the result. In other words, I am just trying to get your views. On these phases you would have the voluntary method rather than the compulsory legislative method?

Attorney General BROWNELL. In the area of employment?

The CHAIRMAN. Employment, or cases where mortgages are foreclosed as the result of actions by so-called white citizens' councils or

other organizations, or where the farmers, because of their race, color, or creed, are denied credit.

Attorney General BROWNELL. I think it would be a mistake, Mr. Chairman, to try to decide as between the particular method of approach. We like the overall approach. For example, in the area of economic pressures and denials of the right to vote, we think Congress should establish this Commission so that there will be a thorough job of public education in this area. In other aspects, we would like the Vice President's committee, which has done so much to eliminate discriminatory employment, to handle that. And in other areas of civil rights, we think it is necessary to have new laws. And as between criminal and civil, we would like to have the civil enacted at this time, because we believe that it would add an enforcement technique that would be very effective. So that it must be a very broad approach, our approach to this problem, and not the selection of one or the other of the various approaches.

The CHAIRMAN. There is nothing in the budget to provide for the expenses of this Commission, is there?

Attorney General BROWNELL. That would follow almost automatically, I think, if the Congress authorizes it.

The CHAIRMAN. Where would you get the money to set this up?

Attorney General BROWNELL. As I understand that congressional procedure—and this, of course, you know a great deal more about than I do, Mr. Chairman—if this Commission is authorized and the new Division is authorized in the Department of Justice, it would immediately be followed by an appropriation.

Mr. WALTER. Supplemental appropriation?

Attorney General BROWNELL. Yes.

Mr. FORRESTER. I apprehend that you would get the money where the Truman Commission got theirs. I think it would come by way of supplemental appropriation.

Attorney General BROWNELL. I don't know how they handled that, Congressman.

Mr. FORRESTER. We do know that they had it and we do know that it was paid for.

Mr. KEATING. Mr. Chairman, if I might interpose there, on the question of the funds; the bills which the Attorney General recommended and which Mr. Scott and Mr. Miller and I introduced, provide that there should be authorized to be appropriated such sums as are necessary.

The CHAIRMAN. And now, getting back to title 18, section 241, of the United States Code. This section provides that a law-enforcement officer or individual who conspires to substitute mob violence for lawful adjudication may be prosecuted. However, in some cases there is no proof of a conspiracy between them, thus making it impossible, under the present state of affairs, to prosecute members of the so-called lynch mob.

What would you do under those circumstances?

Attorney General BROWNELL. I draw the line there so far as Federal jurisdiction is concerned in this way, Mr. Chairman. Whenever mob violence is involved, that certainly comes within the Federal authority, and we believe that the laws, if they are defective in any way, should be strengthened so that there is clear authority on the part of the Department of Justice to act.

Mr. WALTER. How many of these lynchings were there this year, Mr. Attorney General?

Attorney General BROWNELL. I have the figures on that. There were not any this year. In fact, the statistics on it were rather interesting. The Tuskegee Institute in Alabama keeps a record year by year. They report that a permanent decline in the number of lynchings per year began in the middle thirties, and in the years 1950 to 1955, there were only 3 lynchings, 1 white and 2 Negro. And there have been none at all since 1951.

Mr. WALTER. That being the fact, is there any need at all for this legislation?

Attorney General BROWNELL. For the antilynching legislation?

Mr. WALTER. Yes.

Attorney General BROWNELL. We think, naturally, that the proposal we made this morning would be a much more effective way of getting at the evil than some of the ones proposed in prior years.

Mr. MCCULLOCH. As a matter of fact, we probably have had many, many more kinds of gangster killings in other places in the country than we have had lynchings in recent years, haven't we?

Attorney General BROWNELL. There is no question about that, Congressman.

Mr. FORRESTER. Mr. Chairman, Mr. Attorney General, that particular criminal provision is violated less than any other criminal statute that you have on the books, isn't that true?

Attorney General BROWNELL. Well, these figures would seem to show there has not been a lynching since 1951.

Mr. ASHMORE. It is very good evidence of what you can do by education, too, isn't it?

Attorney General BROWNELL. That is the first line, I think, all the time.

Mr. ASHMORE. The fact that it has been declining year after year.

The CHAIRMAN. Mr. Attorney General, as to those killings mentioned by the gentleman from Ohio, they are not on the basis of race or creed—I am speaking of the new methods that have been developed—they do not use now the rope and the fagot, those are out, but there are more modern ways of killing. Now there is the more sophisticated system of killing by bomb blasts. There have been a number of bomb blasts where persons who were members of the National Association for the Advancement of Colored People have suffered. Because of their advocacy of the Negro point of view, they have been singled out for killing. There have been 1 or 2 cases of that sort, and while that may not be lynching within a narrow definition of the word, it has all the earmarks of the evils of lynching. What do you do in a case like that?

Attorney General BROWNELL. Well, I think everybody in the room has been rather horrified by some of these recent instances to which you refer, Mr. Chairman. But I think, as you yourselves have said, that that would not constitute a lynching. And if there is any doubt in the minds of the committee just as to how widespread this practice has been, we believe that the Commission which we have recommended could bring out the facts there in a dramatic way that has not been done up to date.

I do want to be perfectly clear on this one point, Mr. Chairman. I believe that you intended to ask the question, although not in so

many words. I want to be clear that we are not in favor of extending the Federal jurisdiction to murders.

The CHAIRMAN. I wouldn't vote for it either.

Attorney General BROWNELL. And there is a point there—I think you will find that some people rather loosely confuse these two things, the mob violence and the lynchings, which they think the Federal Government should protect against—that is on the one hand, but some people would seem to carry that over to a point where the Federal Government would prosecute for every murder throughout the country. That is something else again. And I believe you would destroy our Federal system if you did that.

Mr. WALTER. Are you giving the United States Court police-court jurisdiction?

Attorney General BROWNELL. I think even in the original Constitution it was recognized that if the Federal Government was going to exist as a Government, it must protect the right to vote.

The CHAIRMAN. Wouldn't that principle apply to H. R. 259? I call your attention to page 3 of the bill, H. R. 259—page 3, section 247:

> Any assemblage of two or more persons which shall, without authority of law, commit or attempt to commit violence upon any person or persons or on his or their property because of his or their race, color, religio , or national origin, or exercise or attempt to exercise by physical violence, upon any person or persons or on his or their property because of his or their race, color, religion, or national origin—

and so forth.

That is based upon the constitutional provision of equality. When Negroes are singled out for these acts of violence because of their desire to vote or to exercise other rights, they should be protected. The gentleman from Pennsylvania said there was no distinction. In my book there is a distinction between this type of violence if it is based upon color or creed. Do I make myself clear, sir?

Attorney General BROWNELL. I think you do.

Mr. ROGERS. Mr. Chairman, do I understand Mr. Attorney General—I take it from page 7 of your statement that as it relates to the civil rights you are confining yourself only to the voting rights of the individual in any particular State, that is the objective of the civil-remedies provision; is that correct?

Attorney General BROWNELL. Under our fourth point, I think it would be a little broader than that, Congressman. That adequately describes the third point. And the fourth point that I made in my prepared statement, in that point we would go further.

Mr. ROGERS. You say it would go further than that?

Attorney General BROWNELL. In the sense that it would cover other civil rights.

Mr. ROGERS. Now, as an example, you mean civil rights within the Federal Constitution and Federal laws?

Attorney General BROWNELL. Only within proper Federal jurisdiction.

Mr. ROGERS. As an example, in my State we have a statute—not dealing with voting—but we have a statute that any cafe owner or hotel owner who refuses to give service because of race, color, or creed, is automatically subject to civil liabilities of $200 for refusing service. Now, would your bill or any proposal from the Department of Justice give you jurisdiction to go in and see that that statute is enforced in the State of Colorado?

Attorney General BROWNELL. I don't think so.

Mr. ROGERS. So far as your recommendation here is concerned, it is as to the voting privileges, and nothing more?

Attorney General BROWNELL. And other things such as discrimination in the selection of petit juries and grand juries, illustrations of that type I gave in my statement.

Mr. ROGERS. Now, that brings up the fundamental question. You and I know that until a crime is committed the prosecutor has no authority to move in. Isn't your proposal to go in and seek an injunction prior to the time of an election a departure from the well-known criminal procedures that we have constitutionally and for years recognized?

Attorney General BROWNELL. It isn't a deviation from criminal procedure, because it is not in the field of criminal procedure.

Mr. ROGERS. Well, then would you by equal persuasion insist to this committee that you be given authority that in the event that you recognize or believe that some individual is about to create a crime by violating any other statutes of the United States that you be given injunctive procedure to prohibit him from doing that act?

Attorney General BROWNELL. I don't believe that would even follow logically, Congressman, because of the importance, specificity of the Constitution in this area of voting.

Mr. ROGERS. Well, the principle that I am trying to get at is that ordinarily, even though you have criminal statutes, no prosecutor has ever been invested with the authority of preventing the commission of a crime; that is what you ask in this legislation, isn't it?

Attorney General BROWNELL. I would put it this way: I think I would have to disagree with you on that. What we are trying to do is enforce the provisions of the Constitution, not criminal laws. And we are asking for civil remedies to enforce the Constitution.

Mr. ROGERS. That is the point I am trying to get at. You only want it confined to civil remedies for any person who may violate the so-called civil rights as provided by the various sections of the Constitution that you have outlined, but you are not ready to say that it should go to any other provisions of the Constitution to give you the right, by injunction, to step in and prevent any other violation of the Constitution or other Federal statute.

Attorney General BROWNELL. You mean other than voting?

Mr. ROGERS. Yes.

Attorney General BROWNELL. Yes, I think we do go a little farther than that.

Mr. ROGERS. Well, you go far enough as to all civil rights, but you are not asking any authority beyond that.

Mr. SCOTT. Would the gentleman yield?

Mr. ROGERS. I yield.

Mr. SCOTT. As I understand it, Mr. Attorney General, the civil remedies which you are requesting are grounded upon the 14th and 15th amendments, and are intended to implement that; is that correct?

Attorney General BROWNELL. That is basically right.

Mr. FORRESTER. Mr. Attorney General, if you will indulge me 1 minute, I don't know whether the gentlemen read the report of former Attorney General, Justice Clark, where he was reporting with reference to bills which had been recommended by the Truman Civil Rights Commission.

The CHAIRMAN. Are you reading from the hearings, Mr. Forrester?

Mr. FORRESTER. I am reading from the report of the former Attorney General, which the chairman incorporated into the hearings when he testified on some of these bills.

The CHAIRMAN. What page is that?

Mr. FORRESTER. I am going to read from page 179.

I want to direct the gentlemen's attention to this language on the part of Attorney General Clark. And he was discussing particularly legislation relating to lynching, and any legislation which would descend down to the individual levels as against conspiracy or as against the States. And here is what he said. I am asking the gentleman in question, because I apprehended that probably he had in his mind this recommendation. He said:

> I am not unmindful, of course, that serious questions of constitutionality will be urged with regard to some of the provisions of the bill. But I am thoroughly satisfied that the bill, as drawn, is constitutional. It is true that there is a line of decisions holding that the 14th amendment relates to and is a limitation or prohibition upon State action and not upon acts of private individuals (*Civil Rights Cases*, 109 U. S. 3; *United States* v. *Harris*, 106 U. S. 629; *United States* v. *Hodges*, 203 U. S. 1). These decisions have created doubt as to the validity of a provision making persons as individuals punishable for the crime of lynching. However, without entering here upon a discussion of whether or not these decisions are controlling or possess present-day validity in this connection, it may be pointed out that such a provision punishing persons as individuals need not rest solely upon the 14th amendment. Upon proper congressional findings of the nature set forth in H. R. 4683, the constitutional basis for this bill would include the power to protect all rights flowing from the Constitution and laws of the United States, the law of nations, the treaty powers under the United Nations Charter, the power to conduct foreign relations, and the power to secure to the State a republican form of government, as well as the 14th amendment.

Now, I apprehend that what the gentleman had in mind is that there are serious doubts as to the constitutionality or validity of any laws relating to an individual unless you incorporate into that and bring into that the United Nations Charter and the treaty laws.

Attorney General BROWNELL. Well, I have always felt, Congressman, that the most lawyerlike way to approach the antilynching problem would be through a constitutional amendment.

The CHAIRMAN. Will the gentleman yield?

Mr. FORRESTER. Yes, sir.

The CHAIRMAN. It is interesting to note that this committee, the House Judiciary Committee, in a report filed by Mr. Clifford Case, the gentleman from New Jersey, now Senator, on March 23, 1948, favorably reported a practically identical antilynching bill. The report discusses—and resolves all constitutional doubts in this committee.

Mr. FORRESTER. That may have been this committee or it may have been Mr. Case, but the United States Supreme Court has ruled as I just read. And the Attorney General, Mr. Tom Clark, said that you would have to tie into it the United Nations Charter and the treaty laws in order to reach the individual.

But I apprehend that is one reason why the gentlemen want to approach this from a civil way instead of by criminal action.

Attorney General BROWNELL. We think it would be much more effective.

The CHAIRMAN. But there is no doubt that, as Mr. Clark said, the antilynching bill identical with this was constitutional.

Mr. FORRESTER. Not on the 14th amendment, no.

The CHAIRMAN. It says in so many words it is constitutional.

Mr. FORRESTER. It says if you tie in the United Nations Charter and the treaty laws. That is on page 179.

The CHAIRMAN. He said, "I am satisfied that the bill as drawn is constitutional."

Mr FORRESTER Because it will not rest on the 14th.

Mr. KEATING. Does the bill as drawn have the United Nations Charter in it?

Mr. FORRESTER. The bill as drawn had it in there. It was taken out in the subcommittee. It was stricken in the subcommittee at the instance of the gentleman from North Dakota. What I am saying is that you have got to have it in there if you have validity.

Attorney General BROWNELL. So that there may be no doubt on the question, I will repeat some of my testimony on the Bricker amendment to the effect that I don't think the United States Government gets any constitutional authority to act from the United Nations Charter.

Mr. JONES. I don't, either, but there are certain people in this country that seem to.

Mr. KEATING. I wonder what the gentleman from North Dakota, Mr. Burdick, has to say.

Mr. BURDICK. I am just making up my mind.

Mr. KEATING. May I ask a question. We have before us some printed hearings on this matter. I assume that if this committee reports a bill for consideration in the House, the proceedings here will also be printed.

The CHAIRMAN. I think that these hearings will be printed as supplemental. I will say that the hour is getting late, and I doubt if we will be able to attack the bills today. And I want to state that we will have a meeting next Tuesday to consider the bills, particularly in the light of the testimony of the Attorney General.

Any other questions?

Mr. LANE. Yes.

Mr. Attorney General, most of your remarks have been confined to H. R. 627 reported by the subcommittee, with a good deal of discussion on H. R. 259, the so-called antilynching bill. And of course, at that time we didn't have in mind the lynching by hanging; we went into the broader view. As I understand it today you feel that as far as this bill is concerned we ought to treat it in a civil way after we have had the study by this Commission.

Attorney General BROWNELL. I want to make this clear, that so far as mob violence is concerned, or the so-called hooded-action crimes, that we think the Federal Government should have complete authority there to prevent mob violence based on racial discrimination.

Mr. ASHMORE. Would the Federal Government in that instance try to come in ahead of the State or wait and see what the State did?

Attorney General BROWNELL. My own thought on that would be that the State should have the first crack at it, so to speak, but that in case of failure to act on a clear violation of the law that the Federal Government would come in

Mr. ASHMORE. And I was also interested in the line of questioning of my colleague, Mr Rogers. I still don't get where the civil proceeding would come into the picture, that you recommend. If it is not put into execution before the crime is committed——

Attorney General BROWNELL. Yes, it would be.

Mr. ASHMORE. When? Can you give us an illustration?

Attorney General BROWNELL. Suppose you have a situation where a registrar or a voting election official persistently deprived Negroes of the right to register, pay their poll taxes, or vote, once we are convinced of his attitude in this matter, rather than waiting for it to happen again, I would be inclined to throw out an injunction.

Mr. ROGERS. In that connection, as you know and I know, for a number of years there are many States that have had the qualifications that in order to vote you must know the Constitution and know the laws and be able to read and write, and things of that type. Now, one registrar of elections may interpret it differently from another. Now, that being the situation, the only authority that you ask is that if that registrar of elections clearly violates the law, and his violation is based upon discrimination, then and then only you can step in, and when you do step in you want the authority, so to speak, to authorize the Federal court to compel that registrar to register that man so that when the election comes he can vote. Would your injunctive power go that far?

Attorney General BROWNELL. That might be the practical effect of it, to restrain him from taking any action.

Mr. ROGERS. Yes, but——

Attorney General BROWNELL. Other than what the law requires.

Mr. ROGERS. If, as an example, you submit a sufficient case to the Federal judge in that district——

Attorney General BROWNELL. That is what we have to do.

Mr. ROGERS. Then you could ask for an injunctive procedure in connection with that man or any others in a similar situation.

Attorney General BROWNELL. Right.

Mr. ROGERS. Now, if it goes into a similar situation, doesn't the Federal judge on request of your Department have to enter into some close decisions as to whether he should or should not be registered, depending upon the facts in each particular case?

Attorney General BROWNELL. Well, our life seems to be made up of close decisions over in the Department of Justice, and there would undoubtedly be some border cases. But we would emphasize the worst abuses.

The CHAIRMAN. Just to sum this up, Mr. Attorney General, to see if I get your point of view on these bills that have been reported by the subcommittee. First, you agree that there should be set up a Civil Rights Commission, members to be appointed by the President, and with some little differences between the number and their functions in your recommendations and the bill as reported favorably. I think your suggestion provides for subpena powers.

Secondly, both H. R. 627 and your recommendation involves creation of a Civil Rights Division in the Department of Justice, and the creation of an additional Assistant Attorney General to preside over that Civil Rights Division.

Thirdly, as to protection of the right to vote, your suggestion in principle is very much like the provisions in H. R. 627 concerning voting.

I think you also take the position on the negative side that there should be no amendment to the criminal statutes as to segregation in transportation, education, and other activities. Is that correct?

Attorney General BROWNELL. Specifically that is correct, referring to those two areas.

The CHAIRMAN. Now, there is one item I am not clear about. Do I understand that with reference to 259, the so-called protection of right to freedom from violence, you do agree that the mob violence provision of that section, which is based on discrimination as a result of color or creed—that wins your approval, am I correct in that?

Attorney General BROWNELL I am not sure of the definition there, Mr. Chairman, but if it is defined as we discussed in our previous exchange here, I think that would be right.

Mr. MILLER. I would like, also, since the chairman summed up, to add this, if I may. I take your feelings, or the administration's position in this matter to be, that while you are recommending specifically at this time only in the field of voting you have an interest in all fields of civil rights. For example, the Department of Justice has participated, as friend of the court in the Supreme Court decision in the area of education, the Interstate Commerce Commission order, et cetera, and you feel that substantial progress is already being made in all of the other fields?

Attorney General BROWNELL. I am glad you made that point——

Mr. MILLER. Much progress has been made through the Vice President's committee and in all of these other areas.

Attorney General BROWNELL. Yes.

Mr. MILLER. It is the administration's position that through education and orientation and cooperation substantial progress is being made in those fields, and you feel at this time any legislation might do more harm than good in those fields, but only so long as substantial progress is being made do you exclude those things in your recommendation at this time?

Attorney General BROWNELL. I am awfully glad you made that point, because I agree with it thoroughly, and it is absolutely basic to the administration's position.

The CHAIRMAN. The gentleman from California.

Mr. HILLINGS. Mr. Attorney General, when we discuss this question of civil rights the proper impression is that we are only concerned with the rights and problems of our Negro citizens. But there are many other groups of individuals who may come under civil-rights laws. For instance, there are cases where the members of labor unions in factories working on defense contracts have been beaten up or interfered with in their efforts to go to work. We have a recent situation in California where newspaper photographers and reporters were beaten up by local police authorities when they attempted to cover a disaster story.

Has the Department given any particular thought or attention to these other facets of civil rights, or does the Department feel that the present laws are sufficient to meet those situations?

Attorney General BROWNELL. We do have an enforcement program going on in those areas you speak of, and we have been able, in some cases in the last couple of years, to obtain convictions in cases where—I remember one, for example, where a press photographer was beaten up by a public official—also, in the peonage area—and the number of cases where in various Government institutions inmates had been wrongfully beaten up and mistreated by the officers. The statutes

there have been interpreted by the courts to a point where we think that our prosecutive authority is quite clear and working well.

Mr. HILLINGS. You asked for an Assistant Attorney General in charge of civil rights. Is the main rason for that to give emphasis and prestige in the enforcement of civil rights, or do you anticipate that the workload is such that it should move beyond the civil rights section and placed under an Assistant Attorney General?

Attorney General BROWNELL. Those are two reasons, both of which we believe are important. And there is also the third reason that we mentioned, that this will involve increasingly questions of constitutional law and civil law outside the criminal field. It is a new era for civil rights as far as the Federal Government is concerned, and that is an additional reason why we think it is better to establish a separate division where we would have skilled lawyers both in the civil and criminal field.

Mr. BURDICK. I want to ask two questions.

Attorney General BROWNELL. Yes, Congressman.

Mr. BURDICK. My mind is made up. Do you believe that the Government of the United States in any judicial opinion should base its decision upon the provisions of the charter reservations, or insist upon the constitutional laws of our own country?

Attorney General BROWNELL. No; I believe as the Constitution says, that treaties have legal effect in this country, and to that extent they are of course part of the Constitution. But as I expressed to the gentleman a few moments ago, I never felt that—certainly in this field of criminal law enforcement—the Charter of the United Nations gives any of its own authority to the Constitution of the United States.

Mr. BURDICK. And the second question is: Don't you feel that the Supreme Court opinion itself in regard to segregation has made provision for a general approach to this subject as you have outlined here this morning?

Attorney General BROWNELL. I do.

Mr. BURDICK. There is no conflict between your ideas and the decision of the Supreme Court?

Attorney General BROWNELL. That is correct, Congressman.

Mr. CURTIS. I would like to ask one question. Your suggestions go beyond the field of deprivation of voting rights, do they not? There have been some questions about that. And as I understand your recommendations on page 12, that goes into a broader field than mere deprivation of voting rights; is that not correct?

Attorney General BROWNELL. That is right, our fourth point does.

Mr. ROGERS. I take it from the response to the question that was given by the gentleman from New York, Mr. Miller, that progress has been made in many fields as it relates to civil rights. But inasmuch as the progress has not been made as effectively in your opinion in the voting rights, that this legislation is desired and necessary because of conditions that exist, that they have been denied the voting rights in certain sections of the country, and for that season you are recommending this legislation, because the progress has not been made, is that your impression?

Attorney General BROWNELL. That is a factor; yes.

Mr. FORRESTER. Mr. Attorney General, I have just one more question. Did I understand the gentleman correctly that there will be bills produced here dealing with all four of those points—in other

words, that there will be a bill—in other words, you are not recommending 259, but there will be a bill dealing with that particular subject, which is antilynching?

Attorney General BROWNELL. Not with lynching, Congressman. As I understood the question from Congressman Keating, he pointed out that in point 3 and point 4, while we made specific recommendations to the Congress, we had not submitted draft legislation to accompany them. He asked if the Department of Justice would be willing to assist in the drafting of legislation to implement these two points, and I told him "Yes."

Mr. FORRESTER. On 627 you are not endorsing the entire bill, 627, but it is only a certain portion of that that you would go along with?

Attorney General BROWNELL. That is correct.

The CHAIRMAN. Are there any other questions?

If not, I want to say that I am very grateful to you for coming up this morning and helping us with this difficult subject.

Attorney General BROWNELL. Thank you very much.

The CHAIRMAN. We will now adjourn until next Tuesday at 10 o'clock when we will take up H. R. 259 and H. R. 627. We do hope the members will be here.

(Whereupon, at 11:55 a. m., the committee adjourned, to reconvene at 10 a. m., Tuesday, April 17, 1956.)

The CHAIRMAN. Mr. Brownell, we will be very happy to hear from you.

STATEMENT OF HON. HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES, ACCOMPANIED BY WARREN OLNEY III, ASSISTANT ATTORNEY GENERAL OF THE UNITED STATES

Mr. BROWNELL. Mr. Chairman and members of the subcommittee, I am very pleased to have this opportunity to lead off this morning in the consideration by you of perhaps the most important subject that will be considered by the Congress this year. You will remember that President Eisenhower, in his state of the Union message delivered to the Congress on January 19, 1957, reemphasized that we in this Nation have much reason to be gratified at the progress our people are making in mutual understanding. He reiterated that we are steadily moving closer to the goal of fair and equal treatment of all citizens without regard to race or color. The President observed, however, that "unhappily, much remains to be done."

To achieve this goal, as the President noted in his message, the administration last year recommended to the Congress a four-point program to protect the civil rights of our people. This program, again urged by the President, and I appear here this morning in support of it, includes:

1. Creation of a bipartisan commission to investigate asserted violations of law in the field of civil rights, especially involving the right to vote, and to make recommendations;
2. Creation of a Civil Rights Division in the Department of Justice in charge of a Presidentially appointed Assistant Attorney General;
3. Enactment by the Congress of new laws to aid in the enforcement of voting rights;
4. Amendment of the laws so as to permit the Federal Government to seek from the civil courts preventive relief in civil-rights cases.

The Judiciary Committee of the House in the preceding Congress, as you of course know, held extensive hearings last year on H. R. 627 which embodied the administration's civil-rights proposals I have just outlined. So in accordance with the request you have made here this morning, we will try to avoid burdening your subcommittee with repetitious recital of the same statement, and I am very happy to hear that you have included those former statements in the record of today's hearings.

The bill that the Judiciary Committee of the House reported last year was H. R. 627, which was acceptable to the Department of Justice then, and still meets with our approval. I think it is fair to say that the turbulent events and unfortunate incidents that have occurred in the interim have not demonstrated any need for revision of the bills, but they certainly have underscored the need for early enactment of this program.

The need for more knowledge and greater understanding of these complex problems of civil rights I believe is manifest to all of us. So we think it is quite clear that a full-scale public study of them conducted within a 2-year period by a competent bipartisan commission, such as is recommended by the President, will tend to unite responsible people of good will in a common effort to solve these problems.

At present and under existing law there is no agency anywhere in the executive branch of the Federal Government with the authority to investigate general allegations of the deprivation of civil rights, including the all important civil right, the right to vote. It is true that the FBI has a certain investigative jurisdiction in this subject-matter, but as is well known, and perfectly proper, its authority is limited to investigating specific charges of violations of Federal criminal statutes in this field. Thus the services of the FBI can be utilized in this field only in gathering information and evidence in connection with specific charges which, if proven, can lead to criminal prosecution.

It is interesting to note that in other parts of the Government there are excellent agencies that compile information on business and labor statistics, living costs, agricultural problems, weather conditions—almost every facet of our daily life. But there is no agency that is authorized to gather information concerning what we believe to be the most vital function of our governmental life, and that is our federally protected constitutional rights, the most important of which, I repeat, is the right to vote. They are the rights without which government under the Constitution could not exist. The right to vote itself is the very lifeblood of representative government. So we believe this is a vital function about which all citizens and Members of Congress particularly should have full and complete information. Yet we do not have it or adequate means of securing it.

Therefore, we urge this Commission proposed by the President to present the means of securing this vitally needed information.

The CHAIRMAN. Mr. Attorney General, do you object to being interrupted or do you wish that we wait until you conclude?

Mr. BROWNELL. The proposals are somewhat related so maybe it would be better to wait until I conclude.

As to the authorization of an additional Assistant Attorney General, and the creation of a new division to handle all the civil rights matters in the Department of Justice, I would like to emphasize that it is important that all of the Department's civil-rights activities, whether criminal or noncriminal, should logically and in a lawyer-like fashion be conducted in a single division to get the best results. We do not think it is appropriate to have this activity limited to the Criminal Division. The proposed legislation and the additional functions related to civil rights which have devolved upon the Department, in the past 2 years especially, concern many civil matters as well as criminal matters. The extraordinary complexity of this field, to which you have already alluded, Mr. Chairman, involving as it does delicate problems of Federal-State relationships, makes it very important—in fact, we believe, imperative—that responsibility be centered in a well qualified lawyer with the status of a Presidential appointee, an Assistant Attorney General, who will be able to devote full time and attention to the legal aspects of civil-rights problems within the area of Federal jurisdiction.

As to voting rights and election matters, civil proceedings to stop illegal interferences and denials of the right to vote in our opinion would be far more effective in achieving the goal of safeguarding the free exercise of this most valuable right than the criminal proceedings now authorized by law. Criminal prosecutions, of course, cannot be instituted until after the harm has been actually done, and under the present proposals the Attorney General would be author-

ized to go to the civil courts for injunctive and other appropriate relief as the cases may require.

I cannot emphasize too much the importance of providing the Department with these civil-law powers and remedies in voting and also in other civil-rights cases. The civil remedies would be far simpler, more flexible, more reasonable, and more effective than the criminal sanctions could possibly be. Yet at the present time criminal sanctions are the only remedy specifically authorized by the Congress.

I think it is quite obvious to you that in addition to the unnecessary difficulties that they impose upon the Government, they are often unduly harsh in particular situations. Nevertheless, under the present law we have no alternative but to proceed with criminal prosecution, if we are authorized under Federal jurisdiction, to proceed at all.

In asking the Congress to provide civil remedies we are not asking for new and untried powers nor are we asking for any extension of Federal jurisdiction in civil-rights cases. Let me give you an example of what I mean:

We are only asking for new remedies to cover the same jurisdiction. This has been tried in other fields. For over 60 years, as a matter of fact, the Department has had experience in the coordinated use of civil and criminal remedies in the antitrust field. Ever since 1890, the Sherman Act has provided that the district courts should have jurisdiction to prevent and restrain violations of the criminal sections of the act, that is, by civil proceedings, and has made it the duty of the Department of Justice to "institute proceedings in equity to prevent and restrain such violations."

I think you will agree with me, Mr. Chairman, for you have had so much to do in this area with the work of the Department of Justice, that much of the success of the Department in antitrust work is directly attributable to the availabiliy of civil remedies, since here as in the civil-rights cases, criminal prosecution of violators sometimes is unduly harsh and too restrictive.

In the civil-rights field itself, we have numerous statutes which authorize private persons to seek civil remedies. As a matter of fact, most of the large body of judicial precedent and decision which has been built up in the courts defining the constitutionally protected rights has been handed down in these private civil cases.

I mention this particularly because of the concern that I remember was expressed last year at the hearings in some quarters that enactment of these proposals might substantially enlarge the Federal Government's jurisdiction and encroach on the constitutional authority of the States under our Federal system. But to me it is quite clear that such is not the case, and that none of these four proposals, recommended by the President, would extend or increase the area of civil-rights jurisdiction in which the Federal Government is entitled to act. These rights are now protected by amendments to the Constitution, and when they are violated the Government may act already under the criminal law, so the enactment of our proposals that we are discussing this morning would give civil remedies which would not enlarge or in any way clash, as we see it, with the constitutional limitations of the Federal Government to act in this field. But rather it would permit the Federal Government to take civil remedial action instead of having to depend solely upon criminal procedures. In many cases, I am con-

vinced, it would make the difference between success and failure in the meaningful protection of the civil rights of our citizens.

These proposals are designed to give us the means intelligently to meet our responsibilities and to safeguard the constitutional rights of all the people. I am quite clear in my own mind that extremists on either hand will not be satisfied with these proposals, but they will go far to make a living reality of the pledges of equality under law which are embodied in the Constitution. Approval of them will affirm the Congress' determination to secure equal justice under the law for all of our citizens.

That, Mr. Chairman, is my preliminary statement. If there are any questions you would like to ask, I would be glad to try to answer them.

The CHAIRMAN. Some of the bills before us provide in addition to the Presidential Commission for study or inquiry with respect to recommendations concerning civil rights, for a legislative joint committee to study the right of subpena, and so forth. Would there be any objection on the part of your Department or the administration to setting up in addition a joint congressional committee?

Mr. BROWNELL. I think that is primarily a matter for congressional determination. I will say that we have endeavored during the past year to have the Subcommittee on Privileges and Elections go into this field. There has been no disposition on their part to do so, even though serious allegations of violations of civil rights were pointed out to them. So we have been a little discouraged with that approach. But I will say this. So long as it is not a substitute, but rather an additional measure to the proposals for a Presidentially appointed Commission, I am sure we would have no objection to it.

The CHAIRMAN. Would the Commission be temporary or permanent?

Mr. BROWNELL. I think it should be of a temporary nature which would give some force to the argument in favor of a congressional committee to which you refer.

The CHAIRMAN. I think on page 4 of your statement you say that the civil remedies would be far simpler, more flexible, more reasonable and effective than the criminal sanctions could possibly be. Yet criminal sanctions are the only remedies specifically authorized by Congress.

That is not quite accurate, is it, because we have civil remedies even now.

Mr. KEATING. For individuals.

The CHAIRMAN. Yes.

Mr. BROWNELL. Individuals acting under the law.

The CHAIRMAN. I imagine you want to amplify that by saying those remedies have been so chipped away by judicial interpretations as to be not very effective. Is that a fair statement?

Mr. BROWNELL. You are talking about civil remedies that private persons have.

The CHAIRMAN. Yes.

Mr. BROWNELL. Yes, indeed. I did not mean to imply that. In fact, I think I specifically mentioned that in my statement.

The CHAIRMAN. You mentioned it later on.

Mr. BROWNELL. I was thinking of the Government's power to proceed under civil remedies.

Mr. KEATING. Mr. Attorney General, there was some objection made in the last Congress to the inclusion among the powers of this Commission the power of subpena. Do you not feel that in order to obtain the facts in some cases it is very essential that that power of subpena be retained in the law?

Mr. BROWNELL. Yes. It is only fair to the prospective witnesses. Many of them will have important contributions to make in the area of collecting facts, but they do not volunteer them. It would be more sensible, I think, to give them the protection of subpena rights. It would be more important, perhaps, in the case of some recalcitrant witnesses to have subpena power, which has been given to many, many congressional and Executive commissions, as you know. I think the Commission on the Organization of the Executive Branch of the Government, the Commission on Intergovernmental Relations have it. Within the past few years to my knowledge this power has been granted to several Executive commissions.

Mr. KEATING. One other thing occurs to me. On the floor one of the Members who is not known as being singularly friendly toward civil-rights legislation offered an amendment which was carried to set up a set of rules for the conduct of hearings of the Commission. They are considerably more restrictive than the rules which are contained in the House rules for conduct of regular congressional committees. If this committee should decide to include a provision for the conduct of hearings held by the Commission which was in general similar to those set up in the rules of the House for the conduct of congressional committees, would you see any objection that?

Mr. BROWNELL. I am confident that the caliber of the Commission would be such that you could count on them to give the fairest opportunity to witnesses, to be sure that their legitimate rights are protected. Nevertheless, if it is demed advisable by the Congress to set up a special set of rules for that purpose, I think it is extremely important that everyone join in seeing to it that proper rules of procedure are followed by the Commission. I would have no objection.

Mr. KEATING. As a general principle, you favor the setting up of rules for congressional committees, for instance?

Mr. BROWNELL. Yes; that is correct.

Mr. KEATING. Thank you very much.

Mr. ROGERS. General Brownell, title II of H. R. 2145 takes section 241 and repeats the law of conspiracy. It takes a conspiracy in order to be guilty under section 241 (a) as now written. We are adding section 241 (b), which does not require a conspiracy in order to constitute a crime, and it says if any person injures, threatens, or intimidates any inhabitants of any State, and so on, in their free exercise or enjoyment of any right or privilege secured to him by the Constitution or the laws of the United States, or because of his having so exercised the same; when we put in the word "Constitution," does that have reference to the so-called school cases where we have not had any act by the Federal Government on segregated schools, but we do have a decision of the Supreme Court of a decision which says in effect that States cannot maintain a segregated school? Would this provision of the law, if one violated the injunction, as an example, in the manner set forth—that is a constitutional right that is given by the Supreme Court in their interpretation of the 14th amendment—

would this law, if enacted, make it a crime for one who would intimidate an individual in that case?

Mr. BROWNELL. I point out preliminarily, Congressman, that this is not one of the four proposals we are advocating this morning. We are not advocating at this time any amendment of section 241 of the criminal law.

Mr. ROGERS. I see. Then you are not familiar with that section 241.

Then you made reference to the work that is done by the FBI and to the investigative powers they are given under the law and under your jurisdiction. Let us take the case down in Clinton, Tenn., where as I understand it, there was an injunction granted on application by a private party against the local school board, that the school board notified the court that they could not comply with the decree. The FBI was then called in, apparently at the suggestion of the judge or United States attorney in that area.

Mr. BROWNELL. It was at the suggestion of the judge, I believe.

Mr. ROGERS. Yes. In compliance with his request, they were sent there to make the investigation. Would you interpret that decree as a constitutional right that would be violated if these people were guilty of intimidating those that wanted to attend a nonsegregated school? Is that a constitutional right which could be the basis of a crime, if they violated the decree?

Mr. BROWNELL. As I recall in that particular case, it did not come up in that context, so there would be no occasion to answer your question in that case. There it was a question of contempt of court.

Mr. ROGERS. Yes. The point I am trying to get is whether or not, with the court having entered a decree pursuant to the decision of the Supreme Court, if we adopted this section 241 (b), which provides if individuals should intimidate one who is entitled to certain rights under the Constitution he would then be guilty of violating the section 241 and would be subject to criminal prosecution. So far as you are concerned, you have not made the recommendation that we go that far.

Mr. BROWNELL. That is correct. We are not recommending any change in section 241.

Mr. ROGERS. Section 241 (b), as reported by this committee at the last session of Congress, did make that recommendation.

Mr. BROWNELL. I am not quite clear on that. I am inclined to think that was stricken out before the bill went to the floor. Am I correct in that, Mr. Counsel?

Mr. ROGERS. All I have is the report from the committee.

Mr. FOLEY. That is correct. That was stricken out by the committee.

Mr. ROGERS. Then we have it back in again this time in H. R. 2145. As I understand from your previous statement, you are not in a position to take a stand on this section as it appears?

Mr. BROWNELL. I would prefer to study that a little more.

Mr. ROGERS. You would prefer to have a little further study on it?

Mr. BROWNELL. That is correct.

Mr. ROGERS. I have one other question. Do you feel that where a court decree—as in the specific reference to the Clinton, Tenn., matter—any time the Federal judge asked the FBI to come in and make an investigation, you are dutybound to comply with his request to see that the court orders are complied with?

Mr. BROWNELL. Yes. I think that has been the rule ever since the FBI has been organized.

Mr. ROGERS. As far as your office is concerned, whatever evidence they may secure may be presented to the court.

Mr. BROWNELL. That is right.

Mr. ROGERS. Your office does not take a stand one way or another.

Mr. BROWNELL. Unless a contempt proceeding should develop from it.

Mr. ROGERS. Which would be in violation of certain Federal rules in connection therewith.

Mr. BROWNELL. That is correct.

Mr. KEATING. Mr. Attorney General, on this point of school desegregation, if you would refer to H. R. 1151, which is my bill which embodies your recommendation, under part III, in your judgment, would that cover the problem of interference with the decrees of the Supreme Court relating to school desegregation?

Mr. BROWNELL. You are talking about section 121, part III.

Mr. KEATING. Yes.

Mr. BROWNELL. It is awfully hard to apply it to the school situation, because of the discretion which the Supreme Court has given to the district courts in this matter. Certainly, in other areas of civil rights, where we do not have that unique problem that you have in the school cases, it would be so.

Mr. KEATING. I would think it would be more appropriate to refer to an intereference with the decree of a district court, pursuant to the decision of the Supreme Court directing that this desegregation take place with all convenient speed.

Mr. BROWNELL. That is right.

Mr. KEATING. If the district court ordered action in a certain area, and there was an interference with it, in your judgment, it would be covered by those paragraphs?

Mr. BROWNELL. Yes, sir.

The CHAIRMAN. Mr. Attorney General, what that provides, in general, and what the provisions of the bill we passed last year provided were remedies rather than change in substantive law.

Mr. BROWNELL. That is right.

The CHAIRMAN. Let us go back to the substantive law—if we go back to the Ku Klux Act, passed around 1870, or whatever it is, there were three sections. The third subsection—reading from the report which we filed last year—establishes liability for damages against any person who conspires to deprive another of the equal protection of the law, or equal privileges, immunities under the law, or the right to vote in elections affecting Federal officers, if the result thereof is to injure another or deprive of the rights and privileges a citizen of the United States.

That is very broad language. It refers to deprivation of equal protection of the laws. Would not that mean deprivation of equal protection on all laws of American life—on the economic level, on the educational level, on the industrial level, on the political level?

Mr. BROWNELL. I think so far as our enforcement powers are concerned there is a unique probem in the area of schools, because of the unique nature of the Supreme Court decision, where the first and primary responsibility is upon the district courts rather than upon

the law-enforcement agencies. With that exception, I believe it would apply to all other areas of civil rights.

The CHAIRMAN. You make a distinction between the executive agencies and the courts. I want to make another distinction, if I may. You will agree with me, I am sure, that certain rights for equal protection of the law are guaranteed by the 14th amendment.

Mr. BROWNELL. That is right.

The CHAIRMAN. I take it that you agreed it was the duty of Congress somewhere along the line to implement those constitutional provisions. The role of Congress was set out in section 5 of the 14th amendment:

> It has the power, by enacting appropriate legislation, to provide devices for effectuating the rights that the Constitution establishes

If Congress failed to pass appropriate laws to implement the constitutional rights, one's constitutional rights nonetheless would stand.

Mr. BROWNELL. Yes.

The CHAIRMAN. In other words, one's constitutional rights cannot be taken away by congressional inactivity. Therefore, the 14th amendment set forth certain rights to the individual. Among them was that no State shall deny to any person within its jurisdiction equal protection of the laws. What was ordained there is constitutional law; is that correct?

Mr. BROWNELL. Yes. The courts have struggled with that. We have found that, without the implementing legislation, the technicalities are so many and varied and difficult to overcome that it does not give us the tools that we need to make these civil rights really meaningful.

The CHAIRMAN. There is no doubt about that. I am getting at the philosophy of this. In other words, Congress may have been recreant in not giving the appropriate instrumentality that you could seize upon to enforce the constitutional law. Therefore, it was done through the courts. There was nothing left to do but to apply to the courts, since Congress had not acted. You feel that the courts appropriately and properly acted in the premises. Is not that a correct statement?

Mr. BROWNELL. Yes; I believe it is.

The CHAIRMAN. Much has been made of the fact that the Supreme Court overruled precedents—for example, a case decided back in 1896—of the separate-and-equal doctrine. That old case was deemed to be within the Constitution You do not feel that if the times change and conditions vary so much as to require a changed opinion of the Supreme Court, that the Supreme Court is bound by all those precedents?

Mr. BROWNELL. No. I think there have been a number of cases in the history of the Court where that has happened. Of course, so far as we in the Department of Justice are concerned, we accept the latest interpretation by the Supreme Court of the Constitution as being the authentic interpretation.

The CHAIRMAN. I should like to read for the record an extract from an article appearing in the Harvard Law Review—a very cogent and clarifying statement—on page 91 of the article, Supreme Court, 1955 term, by Charles Fairman:

There is nothing unusual in overruling precedents in the light of further study, deeper reflection, or change in circumstances. "There is no virtue in sinning against light or in persisting in palpable error, for nothing is settled until it is settled right" (*State* v. *Ballance*, 229 N. C. 764, 767, 51 S. E. 2d 731, 733 (1949), repeating language in *Sidney Spitzer & Co.* v. *Commissioners*, 188 N. C. 30, 32, 123 S. E. 636, 638 (1924)). This is the wisdom of the Supreme Court of North Carolina, reiterated in an opinion by Justice, now Senator, Ervin. That sentiment truly expresses the spirit of American law. We live under written constitutions We look to our judiciaries for theri authoritative interpretation. But we are, in Mr. Chief Justice Taney's phrase, a "free, active, and enterprising" country. Our greatest judges have been those who have been sensitive to the widening thought and needs of our people.

Out of many instances in which the Court has taken a new and larger view of a constitutional text in the light of the Nation's material or moral development, we may take one very instructive case, *Edwards* v. *California* (314 U. S. 160, (1941)). The State statute prohibited persons from bringing indigents into the State, knowing them to be such. There had been legislation to this effect since 1860; now it applied to Edwards, and he was convicted in a State court. The Supreme Court struck down the California statute. It was urged, said Mr. Justice Byrnes, "that the concept which underlies (California's statute) * * * enjoys a firm basis in English and American history." But he concluded that, by reason of the growth of our industrial society, "the theory of the Elizabethan poor laws no longer fits the facts." Mr. Justice Byrnes then came to a long line of Supreme Court cases that seemed to support California's statute, and concluded:

"We do not consider ourselves bound by the language referred to. *City of New York* v. *Miln* was decided in 1837. Whatever may have been the notion then prevailing, we do not think that it will now be seriously contended that because a person is without employment and without funds he constitutes a 'moral pestilence.'"

The context of the problem had changed, our conception of human need had changed, and Mr. Justice Byrnes and his brethren did not consider themselves bound by an old decision that now seemed out of accord with the enduring purpose of the Constitution.

I thought I would like to put that in the record, because it mentioned two distinguished Justices for whom I have great respect, Senator Ervin and Mr. Justice Byrnes.

Mr. ROGERS. May I ask this question?

The CHAIRMAN. Certainly.

Mr. ROGERS. General Brownell, you did in your statement urge the enactment of a civil-rights activity or division in the Department of Justice under the Attorney General?

Mr. BROWNELL. Yes.

Mr. ROGERS. On page 7 of H. R. 2145, section 111, it says that there shall be in the Department of Justice an additional Assistant Attorney General, learned in the law,e and so forth, under the direction of the Attorney General, to be in charge of a Civil Rights Division of the Department of Justice concerned with all matters pertaining to the preservation and enforcement of civil rights secured by the Constitution and laws of the United States.

Does that mean that it would be the duty of that Assistant Attorney General under your direction to see that all civil rights that had been secured by the Supreme Court decision, particularly in the segregation cases, secured under the Constitution, and not by any statute of Congress or any State, would it be the duty of that Assistant Attorney General to see that all rights secured thereunder would be enforced?

Mr. BROWNELL. We are not advocating this morning the language which you quoted from H. R. 2145. We are advocating the language which appears in H. R. 1151, which Congressman Keating has pre-

sented. We would establish this new Division in the Department of Justice under this language:

There shall be in the Department of Justice one additional Assistant Attorney General who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General.

That, we believe, is the orthodox way that Congress in the past has created these assistants. It is inadvisable to put right in the statute any specific duties for an Assistant Attorney General. In other words, the theory of the law is that the Attorney General, being the chief officer in the Department of Justice, has the responsibility for seeing that the Federal Constitution and law are protected and enforced. Then he assigns the responsibilities to the Assistant Attorney General at his discretion.

Mr. ROGERS. Would not performance of his duties be a broad field?

Mr. BROWNELL. Yes.

Mr. ROGERS. Would part of his duties be enforcement of these court decrees?

Mr. BROWNELL. In the event the Attorney General—whichever language you adopted, and we prefer the one I read into the record, which does not define any duties for a specific assistant—whichever you do, it is quite clear and I think this is your point, that the Attorney General is charged with overall responsibility.

Mr. ROGERS. The point I am trying to get at is: What duties and responsibilities are we giving this special assistant who is to be in your Department?

Mr. BROWNELL. The creation of this position would not create any new substantive law. He would have the authority that is in the Government to enforce whatever Congress puts on the books. Does that make it clear?

Mr. ROGERS. Congress never put this Supreme Court decision on the books. It was there by virtue of their interpretation of the Constitution.

Mr. BROWNELL. That is correct.

Mr. ROGERS. Under their interpretation of the Constitution, they say that segregated schools shall not be permitted. On that basis there is a constitutional right of all citizens to go to nonsegregated schools. If they are segregated, according to the Supreme Court, it deprives them of a constitutional right.

Would your Department and the assistant that we are giving you under this be obligated to follow up and see that any decree that may be entered should be enforced? Would not that be part of his duties, or would it?

Mr. BROWNELL. I would say that, regardless of any legislation that you have before you this morning, it is the responsibility of the Attorney General, to see that the Constitution and laws of the United States, as interpreted by the Supreme Court, are carried into effect.

Mr. ROGERS. There is a great deal of area of disagreement as to what is the law and the interpretation to be placed on it. No doubt you are familiar, as I indicated a moment ago, in the Clinton, Tenn., case, where an investigation was made by the FBI. Facts were found. Many people were arrested who were not a party to that decree. Some

lawyers raised the question of whether or not the court, by citing them for contempt when they were not a party to that decree, could punish them for contempt.

The point I am trying to get at is this: Would this special assistant named in your Department have the authority and the right to see that those people who violated the decree, who were not a part of the decree, be authorized to intervene or to see that these people are punished? That is, these people who are not part of the decree itself.

Mr. BROWNELL. The primary responsibility in the Clinton, Tenn., case rests upon the United States attorney down there, because he is the one representing the Government in that court. He was requested by the court to study this question of contempt.

If this recommendation of ours this morning for the creation of an additional Assistant Attorney General were passed, I would undoubtedly assign him to this area, and he would have general supervision over the activity of the United States attorney in this type of case.

Mr. ROGERS. I take it from that, that if the assistant assigned, after conferring with the United States attorney, should arrive at the conclusion that these people are really in contempt, you would not hesitate a moment to direct your assistant and the United States attorney to proceed with immediate prosecution for contempt.

Mr. BROWNELL. That is correct, under the applicable laws.

The CHAIRMAN. Mr. Attorney General, I would like to ask this question: In H. R. 1151, offered by our distinguished member Mr. Keating, on page 6, at the bottom, we have these provisions:

> Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs first, second, or third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action—

Does that mean that the Attorney General can go in without the consent and knowledge of the individual aggrieved? Could the Attorney General of his own initiative bring the action without even conferring with the individual?

Mr. BROWNELL. Yes; although he would not proceed in the case unless he knew his facts, which would almost, I would say, in every case involve consultation.

The CHAIRMAN. That is not quite the answer. Would you have the right to proceed?

Mr. BROWNELL. Yes.

The CHAIRMAN. But it says for the benefit of the real party in interest.

Mr. BROWNELL. Or for the benefit of the real party in interest.

The CHAIRMAN. Suppose the individual brought his own action. Could you intervene in that case under these provisions?

Mr. BROWNELL. Yes. I again give the analogy of the antitrust laws, where the individual can bring his own action, but that does not prevent the Attorney General in his discretion from bringing a civil antitrust suit.

The CHAIRMAN. Mr. Miller.

Mr. MILLER. Mr. Attorney General, referring to H. R. 1151, on page 4, section 104, subsection (b), you stated that it is recognized that there are extremists in this country on both sides of this issue, with which statement I fully agree.

By appropriation or in other ways, the Congress generally can control the personnel, size of staff, and so forth, which would be engaged in this Commission. It states that the Commission may accept and utilize the services of any number of voluntary and uncompensated personnel for the purposes of this work. Might that not open the door to a volunteering not only on the part of particular individuals in the country but organized groups who, as a matter of fact, are extremists as groups in this particular operation, and thus would perhaps—I think the Attorney General knows the esteem with which I hold him, and the fact that we have a country of laws and not of men, and this Commission may be in operation for many years, depending upon the work to be done and the expeditious way it is handled—might that not open the door to the introduction into this work whole organizations who, because of their extreme positions and sometimes uninhibited emotions, might lead to arresting of other citizens in the country?

Mr. BROWNELL. I would answer that this way, Congressman. I think the caliber of the Commission will undoubtedly be such that they would not want to have services either compensated or uncompensated of any fanatics, shall we say. The exact language to which you refer is the standard language used in the creation of these Commissions. I suppose the primary purpose is that once in a while if you find an outstanding expert in the constitutional law field, or something of that sort, and he does not want to take pay from the Government because there might be a conflict of interest, this opens the door to the Chairman and members of the Commission to use him and just compensate him for his expenses. I certainly would feel that whether they are compensated or uncompensated we should avoid in all the activities of this proposed Commission any use of persons who have fanatical views on either side of this very perplexing problem.

Mr. MILLER. I realize it is a standard provision, but as lawyers I think we would agree that this is not a usual field.

Mr. BROWNELL. That is right.

Mr. MILLER. While it certainly is a good standard provision so that the government might use the services of many experts in particular fields, it might be presumed that there would be few volunteers in this particular field except for fanatics. I am wondering if there would be any objection on the part of the Department if by amendment the Congress should see fit to put some restrictive regulations in this thing as to numbers or method of selection.

Mr. BROWNELL. I see no objection to such an approach at all.

Mr. MILLER. That brings me to the same observation concerning the last sentence on page 5, the first paragraph, concerning subpenas for attendance and testimony of witnesses, the production of written or other matter, et cetera. As lawyers, of course, we would agree that subpenas would be almost indispensable for the effective operation of this Commission.

Mr. BROWNELL. Yes, that is right.

Mr. MILLER. But at the same time we recognize the fact the subpenas can also be used to harrass as well as to produce constructive testimony. I take it the Department would have no objection to the writing in by amendment of certain rules of procedure concerning subpenas. In other words, under this particular section, you could

subpena anyone in the country to go any number of miles from his home and remain for any length of time at his own expense. I am wondering if the Department would have any objection to some rules which might at least safeguard and protect the rights of individuals who might be subjected to subpena, such that he be served and for attendance only within their particular judicial district or State.

Mr. BROWNELL. I am sure again that the caliber of the Commission would be such that you would not have any reason to have substantial worry on that score. I believe in the case of other Commissions authorized by the Congress there has never been any abuse along that line. I think a statement of policy would not be inconsistent in any way with the purpose of the legislation, however, and a carefully phrased one which would not interfere with the proper discharges of the duties of the Commission would be entirely acceptable to us.

Mr. MILLER. Mr. Attorney General, on page 6 of the same bill, section 121, paragraph 4, "Whenever any persons have engaged or are about to engage in any acts or practices," from your experience as Attorney General during the past 4 years could you give me a hypothetical example of what might be "about to engage in any act"?

Mr. BROWNELL. Yes. For example, if you have a registrar of voters who arbitrarily strikes off several thousand names of Negro voters shortly before the deadline for qualification of voters and gives no hearing to them or an inadequate hearing, then I would think that would be a case that would alert the Attorney General under this bill to the need for some injunctive action which would give those people their day in court and allow them, like any other citizen, the right of franchise.

Mr. MILLER. To be placed back on the books for the purpose of the forthcoming election so they would not lose their franchise in that election, which they would lose if they had to resort to a lengthy criminal proceeding.

Mr. BROWNELL. That is right.

Mr. MILLER. Just about one more question.

On page 7, paragraph 5, it says:

> The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

Of course, the Constitution of the United States guarantees to each the right to vote. As I understand it, it has been reserved to the States to set up the qualifications, that is, to determine length of residence for voting, to determine age at the present time, to determine literacy, qualifications, and so on.

Would this section, in your judgment, mean that the Attorney General on the allegation that someone was stricken from the books or in any number of ways was about to be deprived of the right to vote, that the Attorney General could go in and secure an injunction against the election commissioner, or whoever it may be, even though the party aggrieved had not exhausted the State remedies which might provide for an appeal from the election commission's decision to the county court or board of commissioners or anything else?

Mr. BROWNELL. Yes, it would, in answer to that. The reason for it, of course, is obvious. One of the rather less attractive features of

the history of this problem is that some regulations have been set up not for the purpose of giving the voter his day in court, but, rather, for depriving him of his right of vote.

It is a matter of concurrent jurisdiction, and in an emergency of the type that you and I have just discussed, I think there should be nothing, either in the rules of the local board or regulations of the State, which would prevent a speedy hearing in time to do some good.

The Attorney General, however, under this provision, would not have the authority to do that on his own. He would have to have a full hearing in court, at which all parties would be represented, and the court would make the decision.

Mr. MILLER. And the Attorney General would make a proper party to the proceedings, and with the administrative officials?

Mr. BROWNELL. That is correct.

Mr. MILLER. And it would be presumed, of course, that the court would follow, and would not circumvent or ignore the State law on the subject of rules, so long as they were not arbitrary or discriminatory?

Mr. BROWNELL. That is correct, but would exercise general equity jurisdiction, which would permit our district courts to give due justice to all parties.

Mr. MILLER. Would there be any objection of the Department of the inclusion in the bill just a simple provision that where the Attorney General instituted the action in the name or for the benefit of the real party in interest, that it be with his consent?

Mr. BROWNELL. I would think it might be misleading to do that, because we have the independent right in the preceding clause to proceed, and it would introduce an unnecessary complication. By and large, the actions which the Attorney General would bring would be for the benefit of a specific segment. There might be an individual named or involved who was the chief witness or something of that sort. But the benefits of any such decree would go far beyond 1 or 2 individuals in the ordinary case.

I think you might introduce a roadblock there which would not give you any compensating advantage. I would be inclined to leave that out.

Mr. MILLER. That is all.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. I believe that in reference to the questions that Mr. Miller has been directing to you, as relates to the injunctive features, do you not believe that before any action should be taken there should be some overt act or something that may be directed to your attention before you move in?

Mr. BROWNELL. Yes. You would have to have substantial evidence before you would proceed.

Mr. ROGERS. I believe you stated that you were in favor of the legislation, H. R. 1151, Mr. Keating's bill.

Mr. BROWNELL. I think that is correct.

Is this the same bill which was passed by the House, the same form?

Mr. KEATING. In the form in which this committee reported it out. On the floor, it was subjected to some amendments.

Mr. BROWNELL. Yes, I am familiar with that, Congressman.

Mr. ROGERS. Part 3, which appears on page 6, where you have an addition of a "fourth," that makes reference to the first, second, or

third paragraphs of the section 121, and also section 1960. The first and second apply to the United States laws, in connection therewith, and the third goes to two or more persons who conspire to deprive either directly or indirectly any person or classes of persons of equal protection of the laws, or of equal privileges and immunities under the law, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such Territory the equal protection of the laws.

Would that limit you, then, to a violation of some specific law that is on the statute book of the State before you could move in?

Mr. BROWNELL. No. I think, as Congressman Celler pointed out a moment ago, in certain instances the Supreme Court has said that the constitutional amendments themselves are self-executing.

Mr. ROGERS. They are self-executing. Of course, that leads me back to the same question I asked you about before. That is, if the Supreme Court, in the interpretation of the Constitution says an individual has a right, then would you consider that as the law or laws of the United States?

Mr. BROWNELL. Yes.

Mr. ROGERS. So that you could proceed?

Mr. BROWNELL. Yes.

Mr. ROGERS. That will be all, Mr. Chairman.

The CHAIRMAN. We have a distinguished visitor, who is also a member of our committee.

We will be very happy to permit you to ask some questions, Mr. Willis.

Mr. WILLIS. Thank you, Mr. Chairman. I am not a member of this subcommittee, and I assure you I will not intrude myself upon the hearings. I do have 2 or 3 questions that came to my mind as the Attorney General testified. I assure you they are fundamental questions and are not more than three in number.

On pages 2 and 3 of your statement, Mr. Attorney General, you properly point out that the right to vote is, itself, the very lifeblood of representative government, to which, of course, we all subscribe. Members of this Congress, and I am sure Members of past Congresses, subscribe to that.

Then you point out, however, that while we have laws dealing with labor, the cost of living, agricultural problems, and so on, we have not, that is, the Federal Congress has not, entered into this field of voting rights and so on.

Mr. BROWNELL. As far as civil remedies are concerned.

Mr. WILLIS. Is it not substantially correct that the reason why the Congress did not enter the field heretofore has been the fact that it was historically regarded that such were matters of State functions? Is that not the heart of the matter? Is that the reason why it is not on the books?

Mr. BROWNELL. I, of course, do not know how to interpret the intention of Congress in this matter over the past years. I think every one of us would be delighted if the action taken by the States in this matter was so vigorous and forthright that the problem of discrimination in this area never came up, so that it would not be necessary to be here this morning. But the fact of the matter is that history shows quite clearly that that action has not been vigorous enough, and it is necessary, if we are to protect this federally protected right to vote,

to have concurrent jurisdiction so that the Federal Government, independently, may act in the matter.

Mr. WILLIS. Would you accept my interpretation of the law and Constitution and decision of the Supreme Court, that fundamentally, the question of qualification of voters and conduct of elections, and so on, are matters historically regarded as State functions?

Mr. BROWNELL. I think it is subject to one very fundamental point which, perhaps, you had in mind, but I do not recall that you expressed it specifically. That is that if the Federal Government is to exist as such, it must have the power, adequately, to protect the right to vote for Federal officials. Otherwise, it would be a hollow shell without any meaning. That, of course, gives the Federal Government a legitimate place in this picture.

Mr. WILLIS. I agree with you.

May I project one more question on this point? I agree that the 14th amendment is self-executory, and overrides State law in matters of discrimination. No lawyer can dispute that. My point is: Is not the rule simply this, that historically matters of election have been regarded as a field for State function, and that if the laws of the several States are discriminatory, it is only at that point that the Federal Constitution comes into play?

Mr. BROWNELL. No, I would have to disagree with that, I think, because I believe that the authority of the Federal Government is as basic as the authority of the State government in this area.

Mr. WILLIS. In the whole field of elections?

Mr. BROWNELL. Of course, the Constitution itself gives certain, as I believe Congressman Keating pointed out, aspects of this matter over to the primary jurisdiction of the States. I am sure that is part, at least, of what you have in mind. Yet those authorities cannot be, as the Supreme Court has said, exercised as a subterfuge or anything of that sort to a point where they would, in fact, destroy the equal right to vote of all the citizens.

Mr. WILLIS. I am sorry you used that word "subterfuge." I am talking law. I am not talking assumptions. I am talking about a situation where the State law is enacted for all voters. Certainly, the State law must provide for nondiscriminatory opportunities for the exercise of the franchise. Do not assume that all the State laws are intended as subterfuges. Then we are not talking about law, but we are talking about bias and prejudice. I say, is it not true that the primary function, at least up to now, has been that the State was to enact laws relating to elections, and that if, in the administration of the law, there was discrimination, then the Federal Constitution overrides the law? You do not disagree with that, do you?

Mr. BROWNELL. I think we are getting down to agreement on statements now. I did not want to be understood that all State laws governing elections have been subterfuges. I was trying to point out that the Supreme Court had shown in a number of cases over the years that in the administration of these State laws they had been administered in such a way as, in fact, to create discrimination, and in a case like that, the Federal Government must step in in order to protect the fundamental rights of the citizens.

Mr. WILLIS. Do you subscribe to a simple bill that would provide and recognize that the matters of election are State functions, and that if you need additional legislation to implement the 14th amend-

ment, if the State laws are not uniformly administered without discrimination, at that point we would add sections? Or do you insist that the Federal Government will go straight forward in this area?

Mr. BROWNELL. I think the study will help to define the proper places for the Federal Government to intervene. But there is no question in my mind that the time has come to make these civil rights meaningful, and that our present system does not accomplish that end. That is the reason it becomes necessary to have civil remedies granted to the Federal Government as well as criminal remedies.

Mr. WILLIS. Of course, that is why I had offered an amendment on the floor to delete other provisions of the bill except the commission, because that part of the bill states that allegations are made that discrimination is rampant, in substance, and then it said "Awaiting the report of the commission, we assume the facts to be proven and go forward." We will not go into that.

Mr. BROWNELL. I think 165 years is long enough to wait, myself, to get this thing working right.

Mr. WILLIS. On the question of segregation, and again I am talking as a matter of law, you seem to hesitate in answering Mr. Roger's questions, and properly so, under your appreciation of the Supreme Court decision that in this particular area the Federal courts are administrators of Supreme Court decisions. It is not that your opinion, I am frank to say, is likely to change many of us, but to help us to understand what we are voting about, let me ask you this simple question: Suppose a student should come to you, to your Assistant Attorney General, with a complaint that a school board is improperly assigning him to a school or is depriving him of his rights under the Supreme Court decision. What would you do then? Would you still say that you would or would not take any action? Let us see what this bill does.

Mr. BROWNELL. I would say that I would not last very long as Attorney General if I tried to answer every hypothetical question that will grow out of this school decision. I find it very difficult to handle the actual situations that are before us. So I do not want to get into any hypothetical cases.

I can give you the general line which the Department is taking in this matter, as illustrated, primarily, by the Hoxie, Ark., case. There you will remember that the school board, in compliance with the United States Supreme Court decision, went ahead and integrated the schools. They were proceeding peacefully with an integrated school, as is the case, of course, in overwhelming areas in our country. Then outside individuals came in and, as the court record shows, threatened the superintendent and the members of the school board with violence, and threatened some of the parents with violence in case the integrated schools proceeded.

The court in that area believed this to be a violation of the law, and asked our assistance. We went in there as friend of the court in support of the courageous action of the school board in complying with the Supreme Court decision. The parties carried that case up, and we argued in the court of appeals. The court upheld the argument which was presented by the Government, that in a case like that it was perfectly proper for the Department of Justice to step in and uphold the constitutional rights of the Negro children in that community.

I am glad to say that the school is now back on an integrated basis, and everything is proceeding peacefully.

That would be, you might say, a classic example of a proper place where we could help carry out the decision of the Supreme Court.

Mr. WILLIS. I do not want to press you, but what I was interested in knowing is whether you would use the injunctive feature of the act, in new law to be placed on the books if it is enacted, in the case I related, independently of assisting the court, or being a friend of the court in a pending case. Would you initiate an injunction against the school board in the case I gave you, under this act if it is enacted?

Mr. BROWNELL. I don't want to mislead you. I am not trying to avoid answering your question. I have found in my own experience that it is very unwise to give answers to a hypothetical case of that kind because there are always special circumstances. If I give an opinion in the void, which we try not to do in our office, then it becomes a matter of misunderstanding. I believe that I would not be promoting the goal of a harmonious solution to this whole problem if I gave opinions in the abstract.

Mr. WILLIS. Just one more question, Mr. Chairman.

Part 4 of this bill provides that no person shall intimidate or attempt to intimidate any voter in the exercise of his right to vote, and so on, at "any election, special or primary election, held solely or in part for the purpose of selecting or electing any such candidate." I think you said in TV a few Sundays ago that you thought in matters of primary election, we were entering into a delicate field, or something of the sort.

Under this language, are we not only entering into the field of primary elections, but also of party convention? If not, what does selecting a candidate mean? It can mean nothing else, in my opinion, than just that.

Mr. BROWNELL. It is my opinion that the bill before you from which you quoted does not increase the Department's jurisdiction in connection with State primary elections. At the present time, our jurisdiction is limited to commencing criminal proceedings under sections 241 and 242, which are the criminal provisions of the civil-rights laws. Under 242, it is necessary that the wrongdoer be a State officer. In other words, that he be acting under color of law. Under section 241, you have to prove a conspiracy. The statute operates only against conspirators, in other words.

With these statutes that are on the books, we can now act with respect to State primaries only in these situations: First, where there are included in the election one or more Federal offices, and where the primary election is, for all practical purposes, conclusive. That is, where winning the primary nomination is tantamount to winning the general election. Or where the primary has been made by State law an integral part of the election processes of the State, and individuals are deprived of their right to vote or to have their vote counted.

Secondly, where regardless of Federal-office candidates, persons who act under color of law deprive citizens of their right to participate in the primary election because of their race or color.

To repeat, the proposed legislation, which we offer you this morning, would make no change in the Department's jurisdiction in this matter. What it would do is to give the Department civil powers in addition to the existing criminal powers. With these new civil powers, we could

reach only the same situations which are now susceptible to action under the sections 242 and 241. But, of course, we think we could do it much more effectively through the use of civil proceedings.

Mr. WILLIS. What do the words "electing or selecting any such candidate" mean? You only select a candidate for office through a convention or a party function. This is broad enough to go into the functioning not only of the primary election, but in the party functioning in putting out a champion, whether a nationl convention or at a State convention; is that right?

Mr. BROWNELL. We would be bound there, it seems to me, by the Supreme Court ruling, that where any primary step in the election process does, for all practical purposes, decide the election, then it is considered an integral part of the election process, and, therefore, subject to the law. So if a new process were developed which had that effect, I would think it would come under the law. Normally it would not.

Mr. WILLIS. So it could be construed to give you jurisdiction in matters of State conventions in selecting a candidate for office?

Mr. BROWNELL. Not unless we already have that authority. The new legislation would not change the Federal jurisdiction.

Mr. WILLIS. Those are new words, I think, Mr. Attorney General. I think those are new words "electing or selecting."

Mr. BROWNELL. I do not believe you would change the jurisdiction, the constitutional jurisdiction, of the Department. You would merely give us new remedies, new civil remedies.

Mr. WILLIS. Thank you, Mr. Chairman.

Mr. ROGERS. May I ask a question for clarification? Did I understand you to say that in those cases where the nomination is tantamount to election, you feel that you could step in and protect in that case, but where, as in my instance, after nomination you still fight it out in a general election, would there be a distinction in cases of that type, and I would not get the protection out my way that Mr. Willis might?

Mr. BROWNELL. That distinction has been laid down by the Supreme Court.

Mr. ROGERS. I think we ought to change that. I need the protection all the time anyhow.

Mr. WILLIS. I should say, Mr. Chairman, I think there is quite a lack of understanding of the primary. You know, the family fights are the worst kinds of fights. That does not mean we do not have an election. Do not put that in your mind by any means.

The CHAIRMAN. Thank you very much, Mr. Attorney General.

Mr. BROWNELL. Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Keating will be our next witness.

STATEMENT OF KENNETH B. KEATING, A UNITED STATES REPRESENTATIVE FROM THE STATE OF NEW YORK

Mr. KEATING. Mr. Chairman, members of the committee, and my distinguished colleagues who are sitting here as members of the full committee but who are not members of the subcommittee, I am appearing here in behalf of H. R. 1151, which we have been discussing, designed to carry out the President's civil-rights recommendations.

There can be no question about the gravity of the subject here before us today. Abuses of our civil rights strike at the very core, the very bedrock, of our American form of government, and our way of life. Their protection should be the sacred duty of every citizen.

Unfortunately, in recent years, we have witnessed both subtle and blatant infringements on the civil rights of some citizens. These infringements, tragically motivated by racial prejudices, have resulted in tensions of explosive proportions. Because of this situation, I am convinced that the President's moderate, realistic, and progressive approach, as embodied in H. R. 1151, will succeed, where more abrupt and violent efforts will fail.

I should like to emphasize from the start that H. R. 1151 is the same measure which I sponsored last year, which was substituted by the committee for the chairman's bill, and then passed the House toward the close of the session. Therefore, this measure has been carefully explained by me and other members, was gone over minutely by the committee during hearings last year, and has, this morning, been carefully explained by the Attorney General.

With this thought in mind, I shall keep my testimony short and will not attempt to explain each provision of the proposal.

Every argument I can think of, both for and against civil-rights legislation generally, and this bill particularly, has been repeated over and over again. This committee would, in my judgment, have been completely justified in reporting out this bill again without hearings. But the committee has leaned over backward to give all interested parties an opportunity to have their say on this legislation.

This year, 4 full days have been allotted for hearings. That should be enough. I shall, therefore, Mr. Chairman, oppose any attempts from any quarter to extend these hearings beyond 4 days.

The probable tactics of the opponents of civil-rights legislation are manifest from past attempts to legislate in this field. Experience has shown that if we are to get any bill to the President, we in the House must enact a bill early in the session. Only in this way can we force action in the other body. I cannot emphasize too strongly the importance of enacting the President's bill substantially as it is presented today. In saying this, I freely admit that there are many things in other bills, including the one which the chairman has submitted, with which I agree wholeheartedly. However, I am convinced that it would be practically impossible for any of these other bills to gain the support necessary to be enacted into law.

We have seen from past performance that if we try to push for unrealistic provisions, we shall very probably get nothing at all. It is time, it seems to me, Mr. Chairman, to take civil rights off the stump and put it on the statute books. At the same time, we cannot dilute this measure and still achieve the protection we seek.

First of all, we must enact this bill as a passage. The approach envisaged by this proposal is a well-rounded, coordinated one, each provision of which is interrelated in an effort to achieve strengthened civil-rights protection .

Secondly, there must be no substantial amendment of any 1 of the 4 principal provisions. For example, the bipartisan Civil Rights Commission cannot be stripped of its subpena powers, without vitiating its effectiveness. Such a move would make the Commission little

better than the many private organizations which have earnestly and valiantly investigated this problem, but have reached dead ends when key witnesses refuse to testify. Only by giving the Commission these necessary tools can it be raised above these other efforts and enabled to accomplish some real good.

The provisions for the instigation of civil suits for civil-rights infractions must not be eliminated. This is a keystone of the whole program recommended by the President. This provision is tied in with the inappropriateness of making only criminal prosecutions available in the field of civil rights. More often than not, the alleged wrong is not related to our ordinary notions of crime at all. Therefore, redress should properly be brought in civil suits, without, of course, in any way impairing the right to proceed criminally if that is determined to be wise and proper in the particular circumstances.

Going hand in hand with provision for civil injunctions is the section allowing the Attorney General to bring injunction suits to prevent threatened wrongs, as well as the power to seek redress for past injuries. This provision can go a long way toward deterring or nipping in the bud conspiracies to deprive citizens of their civil rights.

Mr. Chairman, let me emphasize that I do not contend H. R. 1151 is perfect legislation, nor do I feel it accomplishes all we may eventually want to do. But it is a step in the right direction, a positive and realistic step toward preserving civil rights. To attempt to go further or faster means another dead end.

This moderate but progressive bill is consciously designed to please a majority of the Congress and yet achieve real gains. The President has said that in a democracy there can be but one type of citizenship, first-class citizenship for all. H. R. 1151 represents a hardheaded attempt to achieve that goal.

I hope that the members of this committee and the full committee, in turn, will act favorably on this measure, substantially as it is presented today. In doing so, they will be taking a giant step toward the realization of the first civil-rights goals of any importance Congress has achieved in years.

The CHAIRMAN. Are there any questions?

If not, thank you very much, Mr. Keating.

The Chair wishes to call the Honorable Patrick J. Hillings, Representative from California.

STATEMENT OF HON. PATRICK J. HILLINGS, A UNITED STATES REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. HILLINGS. Mr. Chairman, I am here to testify in support of H. R. 2153, a bill to provide for an additional Assistant Attorney General; to establish a bipartisan commission on civil rights in the executive branch of the Government; to provide means of further securing and protecting the right to vote; to strengthen the civil-rights statutes; and for other purposes. This bill which I have introduced is similar to legislation requested by the Attorney General of the United States in his testimony today and which is similar to other legislation introduced by my colleague, the gentleman from New York [Mr. Keating].

There is little I can add to the testimony you have already received from the Attorney General and others in favor of this legislation.

I merely wish to say that I do not believe that there should be any second-class citizens in America. This civil-rights legislation is necessary to insure the guaranties contained in the Bill of Rights, and I believe legislation of this nature will substantially advance the cause of individual freedom and citizen responsibility in our country.

At a time when our country is faced with the threat of international communism, a movement designed to destroy human freedom, it is vital that we in America keep our own house in order.

No citizen of our Nation should be deprived of the right to vote regardless of race, creed, or color. If this legislation is approved, we will strengthen our stand against communism at home and abroad and we will insure continuation of the American system of government.

Mr. Chairman, I urge that the Committee on the Judiciary on which I have the honor to serve, approve my bill, or similar legislation, in the very near future.

I wish to thank you and the members of the committee for your courtesy in receiving my testimony.

I wish to submit copies of telegrams for the record.

(The matter referred to is as follows:)

[Copy of wire sent to Chief of Police Wm. H. Parker, from Patrick J. Hillings, M. C.]

Recently read remarks attributed to you concerning your opposition to President Eisenhower's civil rights bill. As California's representatives on the Judiciary Committee I would appreciate receiving your views in this matter. Regards.

PATRICK J. HILLINGS, M. C.

[Copy of reply to wire]

Remarks attributed to me re civil rights legislation arose out of confusion concerning the sponsorship of the various civil rights bills now pending in the Congress. As a law-enforcing officer with nearly 30 years' experience and one who is concerned with the effect of the civil rights legislation upon efficient law enforcement, I am pleased to informed you that I heartily endorse the provisions of civil rights bill H. H. 1151 which I now understand contains the President's program, my previous remarks were directed to an entirely different bill. It is my opinion that H. R. 1151 will accomplish the President's objectives in the field of civil rights legislation without any harmful effect upon efficient law enforcement.

WILLIAM H. PARKER,
Chief of Police, Los Angeles.

The CHAIRMAN. You may. Are there any questions?

If not, thank you very much.

The Chair wishes to announce that there will be a brief executive session of this subcommittee. Meanwhile, the hearing will be adjourned until 2 o'clock this afternoon.

(Whereupon, at 11:47 a. m., the committee recessed, to reconvene at 2 p. m., the same day.)

AFTER RECESS, 2 P. M.

The CHAIRMAN. The committee will come to order.

The first witness this afternoon is Representative John F. Baldwin, of California, author of one of the bills before us.

STATEMENT OF HON. JOHN F. BALDWIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BALDWIN. Mr. Chairman and members of the Judiciary Committee, I appreciate the opportunity to appear before your committee to speak on behalf of H. R. 542 and other similar bills which have been introduced in the House of Representatives. These bills would establish a Federal Commission on Civil Rights, would create an additional Assistant Attorney General's position in the Department of Justice, and would authorize the Attorney General to institute civil actions or applications for a permanent or temporary injunction, or restraining order, in cases involving a violation of civil rights, including the right to vote.

It seems to me that perhaps the most important single right of a citizen of the United States is the right to vote in a Federal election for the offices of President, Vice President, presidential elector, Member of the Senate, or a Member of the House of Representatives. I believe that this right to vote in a Federal election should be given every protection by the Federal Government. It is deeply disturbing to hear reports that there have been incidents where citizens of the United States have been intimidated or threatened in an effort to prevent them from registering or from voting in a Federal election. If these reports are true, the passage of this civil rights bill is most essential in order to provide proper protection to such citizens.

Many constituents in my congressional district are very much interested in the passage of this civil rights measure. They feel that it is completely proper and just for the Federal Government to establish more clearly its position in this field of voting rights in Federal elections. I share their views on this subject and would like to urge that this important Judiciary Committee approve this civil rights measure and bring it before the House of Representatives at an early date in the 85th Congress.

I would like to thank you, Mr. Chairman, for the opportunity of appearing before you.

The CHAIRMAN. Thank you very much, Mr. Baldwin.

Our next witness is another Representative from the very important State of California, the distinguished gentleman, James Roosevelt. We are glad to hear you, Mr. Roosevelt.

STATEMENT OF HON. JAMES ROOSEVELT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. ROOSEVELT. Mr. Chairman, I want to express my appreciation to you and the members of the subcommittee for the opportunity to testify on legislation of great importance to the Nation, and of extreme significance to the people of the 26th District of California.

I shall testify on the general subject of civil rights legislation, rather than specifically refer to the six bills of which I am the author. I should, however, like to present for the record a statement outlining the purpose and scope of these measures, and I respectfully ask that it be included in the record at the conclusion of these remarks.

Mr. Chairman, the denial of civil rights—the relegation to second-class citizenship—to any group of citizens is wrong, morally, legally,

and politically. I use the word "political" in its broadest sense, as I shall explain later.

Enactment of legislation to safeguard these rights against constant erosion should have highest priority. Thus any legislation designed to safeguard these rights, even though it may be inadequate, is to be desired.

I do not believe the moral wrong needs emphasis by me. The unmorality of the crimes against human dignity that are committed when human rights are proscribed is self-evident. Both the spirit and the word of our basic law and credo are designed in numerous instances to protect individual rights. Hiding behind the semantics of States rights or local option cannot, in my opinion, make legal any act which deprives the few of what should be an inalienable right. In fact, if we pursue such a doctrine to its ultimate conclusion, we endorse something which is the very antithesis of everything we hold sacred. This doctrine presupposes that in matters of human dignity, the power is greater in each of 48 separate States than is the duty of the Federal state to guarantee and protect basic freedoms. In turn, in each of these 48 separate areas, human freedoms must be sublimated to an all-powerful State. I suggest, Mr. Chairman, that this doctrine is the very warp and woof of the philosophy underlying the Communist system.

Attempts to legislate in this field often are given the cynical description, "political." Some supporters of civil rights legislation may be motivated only by the prospect of partisan advantage, using this narrow concept. It would be well, however, for all of us to recognize the broader political aspects.

The State visit of King Ibn Saud was greeted by an extreme lack of genuine enthusiasm in this country for several reasons, generally because of official discrimination against American soldiers and chaplains because of religious belief, and because of the supreme human indignity—the slave trade still permitted in Saudi Arabia. I should be the last to compare any spot in the United States with the denial of civil rights and freedoms in King Ibn Saud's nation, but the reaction of the American people to conditions in Saudi Arabia points up the political implications of racal and religious discrimination.

We are engaged in a tremendous struggle to keep the people of free Asia from becoming dominated by Russia. We have no desire to dominate these people, but want only their friendship and respect. We cannot gain that respect so long as we deny the full rewards of citizenship to any person or groups of people because of race or religion.

It is a realistic fact that most of the people of Free Asia are other than Christian, most of them are colored people. The bare truth is that if we expect to live at peace with them, they will demand and expect complete equality of citizenship within the borders of the United States.

Many bills have been introduced and referred to this committee, but these particular hearings are concerned primarily with those introduced by the two gentlemen from New York. Congressman Keating's bill is the bill which was enacted in the House of Representatives in 1956. Congressman Celler, the distinguished chairman of this committee, has introduced a bill which is similar, but somewhat broader. It adds stricter penalties. I respectfully recommend the Celler bill

because it is a broader bill. Certainly I believe that no less than the bill enacted last year should be reported favorably by this committee.

The right to vote is a basic right of those who live in a democracy. Citizenship imposes responsibilities and rights. In voting, a citizen exercises both. The bills before you protect the citizen in this fundamental. There is probably no more important part of the whole field of civil rights, and it is good to know that Republican and Democratic administrations alike have recognized this. The Attorney General says he needs these tools. Let us give them to him and watch zealously that in applying them full justice is accorded to all Americans.

May I respectfully and humbly suggest, however, that action on one of these two bills—which I anticipate—be the signal for continued consideration of further efforts to protect the rights of all our people. Either of these bills should be a step in the right direction; but action on either is only a step, and is far from the whole campaign.

I should particularly like to recommend careful and favorable action toward the repeal of the poll tax and the establishment of a Fair Employment Practices Commission. A number of our States have FEPC laws. New York has had a most successful experience. I believe if we study the operations under these laws we would be able to draft Federal law which avoids many of the pitfalls of former attempts. I urge this committee to make a study and report on how FEPC has worked in practice on a State level.

Finally, Mr. Chairman, I think the words of Abraham Lincoln are most appropriate for paraphrasing. The legislation now before this subcommittee, and any other additional matters it may consider in this general area, should be discussed and written with malice toward none and charity toward all.

The CHAIRMAN. I would say, Mr. Roosevelt, that FEPC legislation would not come to this committee. It would undoubtedly go to the Labor Committee.

Mr. KEATING. That is the committee of which the gentleman from California is a member and exerts an influence over the chairman, or attempts to.

Mr. ROOSEVELT. I will do the best I can to get the chairman of that committee also to exercise his influence. Perhaps it would be of assistance, however, if in the general field of this application we could have the advice of the Judiciary Committee on this matter.

The CHAIRMAN. Do you think that committee will take our advice?

Mr. ROOSEVELT. I am sure it would most certainly take your advice and welcome it.

This is a national problem, not an area problem. It is unfortunate that civil-rights legislation has borne the label of being anti-southern; it has set the cause of civil rights back many years. It has given rise to bitter debate and sharp acrimony. Fingers have been pointed to areas outside of the South and denials of civil rights and instances of injustice based on racial or religious prejudice have been cited, and I believe correctly so.

No area can claim a clean hand, and such instances merely point up the need for the Congress to act. We must enact a law which applies equally to all sections, and it must be as rigidly enforced in California as it is in each of the other 47 States.

Through the action of your committee and the resultant enactment of legislation by the 85th Congress, the year 1957 may well see us freed from the seeming curse uttered by a great President:

Accustomed to trample on the rights of others you have lost the genius of your own independence and become the fit subjects of the first cunning tyrant who rises among you.

True freedom must always be our goal.

I have introduced H. R. 424, 437, 438, 439, 440, and 441, each dealing with some phase of the civil-rights program. These bills follow in major part the pattern of the legislation enacted by the House in 1956. In this legislation I have attempted to establish a five-man commission, in the executive department, to study and investigate allegations of violations of the right to vote and of undue economic pressure resulting from racial, religious, or color prejudice. Such a commission has been recommended by Presidents Harry S. Truman and Dwight D. Eisenhower. Its function would be to follow the dictum "Eternal vigilance is the price of liberty" in the civil-rights area.

The Department of Justice is given better machinery for enforcing civil-rights laws, by creating a special division headed by an Assistant Attorney General.

Laws affecting the right of francise were conceived and written in another era and should be brought up to date. The fact that only criminal proceedings offer means of enforcement is a handicap, since not every interference should be treated as a crime. The series of bills I have sponsored permits injured individuals the right to institute civil action.

I have also suggested the strengthening of laws relating to convict labor, peonage, slavery, and involuntary servitude, in order to protect against economic slavery or peonage.

Included in the measures sponsored by me is H. R. 441, a Federal Antilynching Act. This bill is in accord with our basic principles of justice. Every man is entitled to a fair trial. Lynching denies that right. Even one lynching is a horror we as a Nation cannot afford. If enactment of this bill would only prevent one potential lynching from now to eternity, I should feel it had served a worthwhile purpose.

The CHAIRMAN. Thank you very much, Mr. Roosevelt.

The Chair wishes to place in the record a statement from my distinguished colleague from my State, Representative Isidore Dollinger, and also the statement of Mike M. Masaoka, of the Japanese American Citizens League.

(The statements follow:)

STATEMENT BY HON ISIDORE DOLLINGER, NEW YORK

Mr Chairman and members of the Committee on the Judiciary, the vitally important question of civil rights is now before you for consideration. I am pleased that your committee has undertaken this work at this early date in the 1st session of the 85th Congress, because it gives us the opportunity to work for early passage of greatly needed civil-rights legislation. I feel certain that a good civil-rights bill would have passed the House in the 84th Congress if the administration had not stalled on the issue and if the Attorney General had not waited 3½ years to make his recommendations. Those delays which brought the matter before us during the closing days of the session meant that the Senate would not act on it—and the Senate did not. It is hoped that those of us who are sincerely interested in passage of good and effective civil-rights legislation will be successful in our efforts in this Congress

Civil rights has always been one of my major concerns. I have again introduced my many bills dealing with various phases of civil rights—to prohibit discrimination in employment; to abolish the poll tax; to prevent Federal funds being used for housing where discrimination in housing exists; an antilynching bill; to prohibit segregation of passengers because of race or color; to withhold Federal aid from schools which discriminate among students by reason of their race, color, religion, ancestry, or national origin.

The purpose of my bills is to assure to all our citizens—regardless of their race, color, religion, ancestry, or national origin, true equality and freedom as guaranteed by our Constitution. We must establish, by effective legislation, the rights of those who are now discriminated against, harassed, intimidated, and denied some of our greatest privileges of citizenship, because of their race or color or religion.

I repeat what I have said so many times—as a Nation we can no longer afford to allow present discriminatory practices to continue. Almost continuous headlines and reports concerning the school segregation-integration controversy, bombings, killings, and other crimes having as their basis race-hatreds and discrimination, have lowered our prestige and have furnished the Communists powerful ammunition to be used against us. Our undemocratic and cruel treatment of a large segment of our population must disgust many of the nations which we want on the side of democracy and to which we proclaim that democracy is the finest form of government. I say that while discrimination flourishes here, we have no true democracy—we are trying to sell something that we ourselves have not achieved and this must weaken our position of leadership in the cause of democracy among other nations.

It is deplorable that we, as a nation, have lost so much ground in diplomatic and world affairs during the past 4 years. It is time that we started to win a few victories in the cold war. We should put into effect a good, practicable, and effective civil-rights program so that our own house will be in order, and so that on this score, at least, our enemies cannot shame us or cause others to lose faith in our way of life in our great country.

I urge your committee to take favorable action on such legislation without delay. By such action you will gain the respect and high regard of all Americans who believe in true equality for all.

JAPANESE AMERICAN CITIZENS LEAGUE,
Washington, D. C., February 1, 1957.

Hon. EMANUEL CELLER,
Chairman, Subcommittee No. 5, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter, written for inclusion in the record of the current hearings, repeats the often expressed endorsement of the past 10 years of the Japanese American Citizens League (JACL) for civil-rights legislation, as well as the hope that at long last some meaningful statutes will be enacted in this session of the 85th Congress to provide equal rights and equal opportunities for all Americans.

In the light of the Democratic and Republican Party platforms of the 1956 campaign, and in view of the voluminous testimony taken at previous hearings and legislative history of similar measures last year, it is our understanding that this subcommittee recognizes the need for some civil-rights legislation. Its concern, we understand, is which representative bill should be reported, the so-called administration proposal as introduced by your colleague, Representative Keating, as H. R. 1151, or the more comprehensive approach to the protection of the human rights of all Americans as envisioned in your own bill, H. R. 2145.

Of the two bills, the JACL would, of course, prefer to have H. R. 2145 enacted into law because of the greater and more specific safeguards it provides for the basic civil rights of all Americans.

If, however, political realities dictate congressional consideration of only a minimum program, such as that proposed by the President in his state of the Union message, then JACL takes the position that such minimum legislation should be enacted, lest once again all efforts for civil rights be frustrated. We would be opposed to any maneuvering for political or partisan gain that would result in the defeat of all civil-rights legislation in this Congress.

Ten years ago, the President's Commission on Civil Rights issued its historic report to secure these rights In the decade since that Committee found practice far behind the professions of the American heritage, substantial progress has been made toward the goal of freedom and equality for all. But, significantly, almost all of the progress has been made by the courts and by administrative actions. With only a minor exception or two, the Congress has failed to enact any meaningful human-rights legislation in the past 80 years

The shameful record of what is, and has transpired in the past few years in one part of our Nation against certain of our fellow Americans, and the lawless disregard of the mandates of the Supreme Court of the land by some elements of our population makes it imperative that the Congress assume its responsibilities and speedily enact legislation to protect the lives, the properties, and the votes of all Americans everyhere in the United States.

As the victims of hate and hysteria during another recent epoch when our democracy tolerated racial persecution, we Americans of Japanese ancestry know from bitter experience the fear of mob violence and the threat of the loss of our franchise. We are especially mindful, therefore, of the urgent necessity in these troubled times for effective statutes and efficient enforcement to eliminate lawlessness against our fellow Americans because of race, color, creed, or national origin, and to guarantee to all citizens the right to the ballot. Moreover, because of our ancestry, we are painfully aware that the indignities to which some of our fellow Americans are subjected are being cited by the Communist enemy as the criteria of our regard for the nations and peoples of Asia and Africa, with the objective of alienating them from the support of the free world.

That all Americans may walk the land in peace and dignity is but the simple justice to which every American is entitled, regardless of his racial origin or religion And, as this justice delayed is a denial of his birthright as an American, JACL respectfully urges this subcommittee and this Congress to act expeditiously to speed the day when the civil rights of every citizen are secure and every American may, as a matter of right, enjoy equal justice under the law.

Sincerely,

MIKE M. MASAOKA,
Washington Representative.

The CHAIRMAN. We will now adjourn. The Chair, however, wishes to state that a unanimous-consent request was made on the floor of the House this morning to permit the committee to sit during the sessions of the House. Objection was heard. I hope we will not because thereof run into any difficulties tomorrow. In the event that there are difficulties, we cannot sit while the House is in session, and I propose, if it is agreeable with the committee, to start sessions tomorrow morning at 9 o'clock. Is there any objection to that?

Mr. KEATING. That is entirely agreeable. I am opposed to any efforts by direction or indirection to extend these hearings. We have had telegrams come in here now from various governors and attorneys general and so on, who want to be heard some time later in February. I think in all cases they should be informed that these hearings terminate on Thursday, and if they would like to be heard, we would be happy to hear them, and they must be here by Thursday.

The CHAIRMAN. I want to have the hearings last 4 days but there may be some exceptional cases where we may have to hold hearings only a short time after Thursday. Otherwise we will probably be confronted again with objections to sitting while the House is in session, and not only make it extremely inconvenient for them, but for us, too. That is the unfortunate part of it.

In any event, we will see what happens tomorrow. We will meet tomorrow morning at 9 o'clock.

Mr. KEATING. Is that Chairman able to tell us who the witnesses tomorrow will be?

The CHAIRMAN. Yes.

Mr. KEATING. I am perfectly willing to meet at 9, but I do not want to meet at 9 and go for an hour and be through, because the House does not meet until 12.

Mr. FOLEY. In the morning we have only 4 scheduled, 2 Members of Congress, 1 outside witness, and also Hon. Edward Scheidt.

Mr. KEATING. I am perfectly willing to meet at 9.

The CHAIRMAN. Is there anybody here who could testify tomorrow morning instead of tomorrow afternoon, or right now?

Mr. Mitchell, how do you feel about that?

Mr. MITCHELL. Mr. Chairman, in the interest of saving time, about 45 organizations agreed to consolidate their testimony, and Mr. Roy Wilkins is coming down from New York to present it. If he could be heard tomorrow afternoon we would appreciate it.

The CHAIRMAN. You see our predicament. We will renew the request to sit tomorrow while the House is in session.

Mr. MITCHELL. We can come in the afternoon or morning. Would you prefer that he be here in the morning?

The CHAIRMAN. I would prefer that he come in the morning, because we may not be able to hold sessions tomorrow afternoon and reach him. That would be more inconvenient for him.

Mr. MITCHELL. I will tell him to come tomorrow morning, then.

Mr. ROGERS. Do you think he could be here at 9?

Mr. MITCHELL. He does have to come down from New York, and I would appreciate it, knowing train schedules—since you have two other witnesses—if he could be heard after them.

The CHAIRMAN. Very well. We will now adjourn until tomorrow morning at 9 o'clock.

(Thereupon at 2:15 p. m., a recess was taken until Tuesday, February 5, 1957, at 9 a. m.)

CIVIL RIGHTS

TUESDAY, FEBRUARY 5, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to recess, at 9 a. m., in room 346, House Office Building, Hon. Emanuel Celler, chairman, presiding.

Present: Representatives Celler, Rodino, Rogers, Holtzman, Keating, McCullough, and Miller.

Also present: William R. Foley, general counsel.

The CHAIRMAN. The hearing will come to order.

I see we have Mr. Barratt O'Hara, our distinguished colleague, present. Do you want to proceed now, Mr. O'Hara?

STATEMENT OF HON. BARRATT O'HARA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. O'HARA. Thank you, Mr. Chairman.

Mr. Chairman and gentlemen of the committee, I am happy at this opportunity again to appear before this committee, urging the enactment of strong legislation in the field of civil rights. My life has not been a short life. I have seen many conditions in our country. I have seen many visitations of prejudice and of discrimination. The men and women who came from Ireland in the period when my grandfather and my grandmother as children came to this country. In my own life I have seen it visited against the men and women of Polish birth. They came into our Chicago at a time when there had been industrial trouble in the stockyards, and they came not knowing that they were being brought to be factors in a labor dispute, to meet the prejudice of that circumstance, and one of the fact that they came from a country where the English language was not spoken.

That was several generations ago. We went through a period when if a young man of Polish blood was arrested for a crime, he was identified in the newspapers as "Polish," as later in the period when if a young man who committeed a crime and was arrested was of the Negro race, the identification of his race would be printed.

We have had that problem in its various manifestations in Chicago and I think that the reason for the greatness of Chicago is that we have met the problem and we have learned in Chicago to live together in real brotherhood. From the experiences of our associations we have learned that the only measure is that of character. Race is a circumstance of birth, and religion is the mold on which man fastens and strengthens his faith in an invisible moral and spiritual force that affects equally persons of all races and all religions.

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Take the district that I have the honor to represent. In my early years that was entirely a white district. It was a district of prosperity. There were fine homes. At an earlier and shameful period there were these residential covenants that sought to keep people out because of differences of religion and of race.

Now in that district we have or did have until recently the largest Japanese-American constituency of any congressional district in the United States. Two of our wards have Negro aldermen—outstanding statesmen and leaders—and we have every race and religious group, including the American Indian. We have 5,000 American Indians in my district. In that district we have learned to live together in real brotherhood. We could not have made the advances if there had been segregation and the visitation of these other ills that destroy our democracy.

Let me cite you Hyde Park High School. Hyde Park High School is in the center of my district, and is a very famous high school in Chicago. It has contributed men and women who have become great in our community, great in the industrial, professional, social, and cultural activities of the community as they had been when students in Hyde Park High School famous as athletes and in other undergraduate activities. Today Hyde Park High School, I would say, is about equally divided between white students and Negro students. There may be slightly more Negro students than white. This change from an all-white high school has come in one decade or less. I am told that in Hyde Park High School, while this change was taking place, there has not been one single instance of discord.

I go around my district, and here is a grade school once attended by my children when I was a young father, and playing together in front of the school and in the school yard, awaiting the convening of the school, are little boys and little girls, some white and some Negro, and they are playing together in real accord. I stand for a while, observing, then pass on, strengthened by this proof that youth, when freed of the circumstances and conditions built on the prejudices and biases of past generations, will find its level in brotherhood. Democracy is built on the concept of brotherhood. It cannot live in any climate other than that of brotherhood.

I make mention of this because where we have tried to live in real brotherhood we have made a success of it, and everybody has been the happier.

The CHAIRMAN. May I ask you, Brother O'Hara, in that area that you speak of where there is a commingling of races, is there any evidence of intermarriage?

Mr. O'HARA. I want to answer that question honestly. There has, of course, been no tendency in that direction. I have heard expressed on the part of some people who have fears along that line that that might result from a social and educational mingling of the races. There has been no evidence of that at all in my community. But there have been occasional cases, of course. I know of one case, very dear friends of mine. A young woman of strong religious character, deeply interested in religious work, in which she was associated with the young man later to become her husband. He also was a deeply religious man, and neither of them conceived of a God who divided souls by the complexion of their earthly encasements. It is a very, very happy home.

The CHAIRMAN. But you find no general tendency along that line?

Mr. O'HARA. No general tendency at all.

The CHAIRMAN. You have an isolated case here and there.

Mr. O'HARA. As to a general trend, I would say quite to the contrary. There is understanding and companionship, but the appeal of the sexes I think largely—and I think it is natural—goes along racial lines. Definitely there has been no tendency at all in that direction.

The CHAIRMAN. Of course, you know the opponents of the bills before us have always argued that there would be that intermarriage and commingling of races. My research indicates that those fears are ungrounded.

Mr. O'HARA. I would say entirely so. I have heard them voiced in the past, but we do not hear them voiced in Chicago any more. At the beginning there was that fear among many white people in Chicago. But as we worked it out there has not been development along that line, so I would say that in Chicago the fear is entirely gone.

Here is the way I have seen it operate. Most discrimination, gentlemen, comes from poverty. When a group or a race is poor, they have handed down clothing, many times they are so poor that they do not have soap and are without the facilities of keeping themselves clean and presentable, notwithstanding their natural desire is otherwise. Then there are odors and people sort of get away from them. I have found that most prejudices really stem from the conditions of poverty.

As the various groups have attained more prosperity and with it the advantage of all these facilities that we need to keep ourselves clean, and glamorized to a certain extent, those feelings of discrimination gradually have disappeared. Negro young women of the Chicago of today in a more prosperous period are as glamorous and as attractive as young women of other races, with all those things that women use to give themselves the glorification to which all women by reason of their sex are entitled. Their interest, however, is in the young men of their own race and their appeal is to them. The Negro young man is not interested in a girl of another race, because he finds that his eyes are more greatly attracted to the charms of the women of his own race. That is the simple answer to the fears of those who overlook the part that the first of the higher laws of Nature that every race and every form of life should perpetuate itself. That law is as firmly established and accepted, I would say, as the law of gravitation.

I am very glad you brought that up, Mr. Chairman, because there very definitely has been no trend in the interracial society in my district toward interracial marriages.

I do hope, Mr. Chairman—and I know I voice your sentiments—that in this Congress all the people who believe, as I know the Chairman does and many members of the committee do and as I do, will unite in support and passage of legislation calculated to end forever the shame of discrimination of every form in our great and free country. The United States of America cannot survive in the present world climate unless very quickly we stop thinking in the philosophy of the "White Man's burden." The burden of making this a better world is the burden shared equally by all races, and if our United

States is to discharge its responsibility of leadership we must have complete unity, without discrimination, among our own people.

May I be permitted to submit a formal statement later, Mr. Chairman?

The CHAIRMAN. Yes. you have that privilege.

Thank you very much, Mr. O'Hara.

(Mr. O'Hara's formal statement follows:)

STATEMENT OF HON. BARRATT O'HARA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr Chairman, many problems based on race, religion and national origins exist in varying degrees all over the United States Local laws, customs and traditions still divide our people

What we do about racial and religious minorities is one of the severe tests of our protestation of democracy. Democracy must not be destroyed from within.

There are two major aspects of the question of racial segregation The effect upon those segregated and those who do the segregating. There can be no equality within the framework of segregation. Denial of equal educational and economic opportunity, disfranchisement, the ghetto, and the humiliation of the human spirit are the inescapable consequences of segregation.

The evils growing out of segregation are the lowered prestige of the United States among two-thirds of the peoples of this earth and also among many white people. Our enemies make much of the fact that while we talk about democracy we separate and discriminate against our own citizens because of race, creed, or color.

We must give our utmost support to remedial legislation to stop lynching, disfranchisement and educational inequality.

Legislation in a democratic society is the best way to create public acceptance of the basic principles. Those of us who strive for enactment of civil-rights legislation by the Congress do so because we are convinced that the enactment of such legislation will help us as a nation in the struggle against communism. Even though there were no communism in the world we still would fight for elimination of discrimination because if democracy is to be true to itself, if democracy is to survive, we must eliminate discrimination.

On the opening day of the 85th Congress I introduced antilynching, antipoll tax, and legislation to prohibit discrimination in transportation, as well as legislation to prohibit intimidation in the exercise of political participation.

It is a source of satisfaction for all of us to know that the crime of lynching has lessened in the United States in recent years. Nevertheless the need for Federal antilynching legislation remains. The fear of physical violence because of race or color is still a reality for many Americans

The need for effective Federal antilynching legislation was pointed out in 1947 by President Truman's Committee on Civil Rights That Committee made specific recommendations:

1. That lynching be given a broad definition

2 That legislation condemn both private individuals and public officials who (*a*) mete out summary punishment and private vengeance; (*b*) who are derelict in their duty to bring members of lynch mobs to justice.

3. That there be legislative authority so that suspected lynching can be investigated by the Federal Government immediately.

4 That there be adequate and flexible penalities ranging up to $10,000 and 20-year prison terms or both for anyone who aids, abets, or participates in a lynching.

My bill provides for all the requirements listed by the President's Commission on Civil Rights. Moreover, it specifically provides for civil action in behalf of a lynching victim or his next of kin in providing payment of damages resulting from injury or death.

My bill would outlaw the poll tax as a condition of voting in any primary or other election for a national office. The evil of the poll tax has long been recognized. The basis of a democracy is that government rests on the consent of the governed. The machinery for expressing that consent is the right to vote. Property and religious qualifications for the right to vote have all disappeared. The one that still remains is the poll tax, which continues to disenfranchise American citizens and frustrate the principles of representative government.

The States which retain the poll tax are: Alabama, Arkansas, Mississippi, Tennessee, Texas, and Virginia.

The effect of the poll tax is to exclude millions of people from their right to vote and to give undue weight to the franchise of those who are permitted to vote. At this point the thought of Doctor Harold Urey comes to my mind. Doctor Urey is a great scientist in the field of nuclear physics. Yet the vote of a Harold Urey has 1/10,000th of the weight of any voter in Mississippi; such is the effect of the poll tax. We cannot claim truly representative government until Representatives in Congress are chosen by the majority of the people of their districts.

To those who maintain that local action is preferable to Federal law, I can only reply that the voice of the United States will be received with full respect by the people of the world only when we honor in fact the language of our creed set forth in the Declaration of Independence.

My third bill (H. R. 357) prohibits segregation in transportation. The Supreme Court has declared segregation and other forms of discrimination in interstate transportation to be illegal. H. R. 357 is designed to implement and support the existing Supreme Court decision.

H. R. 360 prohibits intimidation in the exercise of political participation.

The Hatch Act makes it a crime to intimdate or coerce an American citizen for the purpose of interfering with his right to vote in elections for a national office. H. R. 360 makes it a crime to intimidate or coerce an American citizen thus interfering with his right to vote in primary and special elections as well as in national elections. While it is the fact that discrimination against voters because of race or color is a direct violation both of the 14th and 15th amendments, such violations continue. H. R. 363 provides criminal penalties in cases of violation and further permits the party whose rights have been violated to bring suit against the violators.

I have pointed out that the rights of individuals are stated in the Declaration of Independence; that interference with the right to vote is prohibied with equal clarity in the 14th and 15th amendments to the Constitution. Moreover, the Supreme Court has ruled that violation of the rights of citizens is illegal. Despite the Declaration of Independence, the Constitution and Supreme Court decisions, violations continue. While local action is undoubtedly preferable, local violations of the law of the land exist; therefore it is the plain duty of the Congress to enact legislation to correct violations and punish abuses. It is obvious that only Federal legislation can lift our practices to the level of our principles.

Legislative Reference Service of the Library of Congress provides the number of lynchings in the United States from 1937 to 1947:

Year	White	Negro	Year	White	Negro
1936	0	8	1942	0	6
1937	0	8	1943	0	3
1938	0	6	1944	0	2
1939	1	2	1945	0	1
1940	1	4	1946	0	6
1941	0	4	1947	0	1

NOTE.—No statistics found on the number of lynchings prevented during 10-year period. According to the report of the President's Committee on Civil Rights (sec. II, 1) in the years from 1937 to 1948 "the conservative estimates of the Tuskegee Institute show that 226 persons were rescued from threatened lynchings. Over 200 of these were Negroes." A New York Times editorial, Jan. 3, 1948, quotes the Tuskegee report for 1947 on lynchings as follows: "No fewer than 39 persons were saved from death by the prompt and courageous action of public officials in defying would-be lynchers."

Source: World Almanac, 1948, p. 451.

Here is the history of antilynching and anti-poll-tax bills furnished by the Library of Congress:

Antilynching legislation

Congress	Bill No	Date	Action taken
73	S. 1978	Jan 4, 1933	Referred to Committee on the Judiciary Reported back (S Rept 710) Aug 12, 1934
74	S 24	Jan 4, 1935	Reported by Judiciary (S Rept. 340) Mar 18, 1935, hearings, Feb 14, 1935
74	S Res 5	Jan 3, 1935	Motion entered to discharge committee, June 15, 1936.
75	H R 1507	Jan 5, 1937	Committee discharged (H Res 125) Apr 12, 1937, amended, passed House Apr 15, 1937 Referred to Senate Judiciary Committee Apr 19, 1937 Reported (S Rept 793) June 22, 1937 Returned to calendar Feb 21, 1938
75	H R 2251	Jan 8, 1937	Reported (H Rept. 563) Apr 6, 1937, consideration refused Apr 1, 1937
80	S 2860	June 14, 1948	Reported (S Rept 1625) June 14, 1948
80	H R 5673	Mar 2, 1948	Reported (H Rept 1597) Mar 23, 1948
81	S 91	Jan 5, 1949	Reported June 6, 1949 Objected to and passed over Feb. 1, 1950, Aug 8, 1950, Sept 13, 1950, Dec 15, 1950.

Anti-poll-tax legislation

Congress	Bill No	Date	Action taken
77	H R 1024	Jan 3, 1941	Rules Committee discharged Oct 12, 1942 Passed House Oct 13, 1942 Reported from Senate Judiciary Committee Oct 26, 1942 Rept No 1662
78	H R 7	Jan 6, 1943	Motion to discharge committee entered May 6, 1943. Committee discharged Bill passed House May 25, 1943. Reported from Senate Judiciary Committee Nov. 12, 1943 Rept No 530
79	do	Jan 3, 1945	Reported Oct 5, 1945 Motion to discharge Rules Committee Passed June 11, 1945 Bill passed June 12, 1945. Motion in Senate to close debate passed July 31, 1946.
80	H R 29	Jan 3, 1947	Reported (H Rept 947) July 18, 1947. Placed on House Calendar Rules suspended and bill passed July 21, 1947 Reported from Committee on Rules and Administration Apr 30, 1948 S Rept No 1225.
81	H R 2199	Mar 3, 1949	Motion for the previous question made to adopt H. Res. 276 providing for consideration of H R. 3199 passed July 25, 1949 Motion to recommit to House Administration Committee overruled and bill passed July 26, 1949
85	H R 627	May 20, 1956	To create a Commission on Civil Rights. Passed the House July 23, 1956.

The CHAIRMAN. Our next witness is our distinguished representative from the State of New York, Mr. John H. Ray.

STATEMENT OF HON. JOHN H. RAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. RAY. Thank you, Mr. Chairman and members of the committee, I appreciate the opportunity to come before you and to present a simple amendment for your consideration.

First let me say that I think the clarification and simplification of the definitions and the remedies for violation of civil rights are a matter of first importance. They are long overdue. I think the Supreme Court was right in its Virginia schools case decision, and particularly wise in recognizing that the problem for solution is largely in the hands of the States, and that they must proceed with deliberate speed.

With those views in mind, I propose a simple amendment to parts 3 and 4 of H. R. 1151. That, I believe, is a duplicate of H. R. 627, which was before the House at the last session.

If you will turn to page 7, paragraph 5, I would strike out the words "or other" in line 10, and then I would add a sentence as follows:

The district courts shall not exercise jurisdiction in proceedings authorized by this section if a plain, speedy and efficient remedy may be had in the courts of the State or Territory in which the party aggrieved resided at the time the cause of action arose.

I suggest a similar change and addition at the end of paragraph (d) on page 9.

The first suggestion is to strike out the words "or other." That is intended to leave to one side court remedies which are now lumped with administrative remedies in the provisions in the act.

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same regard to whether the party aggrieved shall have exhaused any administrative or other remedies—

is the way it reads now. Those words "or other" I take it include court remedies. Therefore, in order to permit application of the new sentence which I propose I would strike out those words "or other" in that context.

The starting point for my thinking along this line dates back to a provision in the Judicial Code, section 1342. You will remember, at least the chairman will, that back in the 1910's to 1920's and in the 1920's, public utilities, who claimed that their properties were being confiscated by orders of State regulatory commissions in violation of their constitutional rights, proceeded immediately in the Federal court for an order to set aside the State commission's rate orders. That caused a lot of trouble and discussion. Finally Congress in the late twenties changed the law and said that the Federal courts might not exercise jurisdiction in such cases if there was in the State court a speedy, efficient and adequate remedy.

This caused a little difficulty until the courts cleared up some uncertainties, but it has worked well since that time.

I think it has been a good thing that cases of that sort go to the State courts where there is an adequate and speedy and efficient remedy, and I also believe it would be good in the cases we are here considering. It would avoid the parties being pulled into the Federal courts, sometimes at some distance, unnecessarily, and at more expense and more delay. I think the Federal courts are already overloaded.

This ought to be primarily a problem for the States. I suggest your serious consideration of the amendments.

The CHAIRMAN. We will certainly take it under serious consideration. I query whether or not there would be a speedy remedy in the State court, considering the charge of excitement that exists in certain sections of the country. Is not one of the purposes of this very bill to assure an adequate and speedy remedy to the person whose constitutional rights have been taken from him?

Mr. RAY. That is the purpose. I am in sympathy with that purpose. I am also in favor of having the States do as much of the work as possible, and I believe that the States can do it. I believe if this sort of statute is enacted, the States will do it.

The CHAIRMAN. Who shall determine whether the required speed is in the State court?

Mr. RAY. The Federal court in which a case may be brought. There is a right of review on certiorari, as there should be, in the United States Supreme Court of the decision of the highest court of a State in which a decision may be had.

Mr. FOLEY. Let me ask you this question: Would you permit the bringing of the action without exhausting administrative remedy?

Mr. RAY. Yes.

Mr. FOLEY. But in most of the State courts today you must exhaust your administrative remedy before you can go into court; is that not so?

Mr. RAY. The State law would have to conform.

Mr. FOLEY. So we would be actually imposing the requirement of the Federal statute on the State legal procedure.

Mr. RAY. If the State wants to try these matters itself, as I think it should, it can easily conform, so that its procedures will qualify under language of this sort. That is what happened in the other case that I referred to. As I said, it has worked well.

Mr. FOLEY. That would be changing the Federal law as it exists today to some extent, because under the holding in *Peay* v. *Cox*, you must exhaust the State administrative remedies. Is that not so?

Mr. RAY. I do not question that. It seems to me that ought to be changed if that is the law. I do not think when a wrong has been committed, of the kind that we have been dealing with here, that you have an administrative problem. You have an action that is complete as a cause of action.

Mr. ROGERS. Mr. Ray, you recognize that the amendment suggested on page 7, and again on page 9, has reference to violations as set forth in section 1980 of the Federal Code or the Federal law?

Mr. RAY. Yes, sir.

Mr. ROGERS. Do you feel that we should, before a man can take advantage of the Federal law, show he has no remedy in the State court before the Federal court will take jurisdiction?

Mr. RAY. If there is the kind of remedy I have described, adequate, speedy, and efficient, then I would see no difficulty in requiring that the State jurisdiction be exercised.

Mr. ROGERS. The point is this. These sections, 4 and 5, where you are adding that to 198 of the Revised Statutes—sections 1, 2, and 3 deal with a violation of a Federal law—the question I am asking you is this: Would you limit the individual so that he could not go into Federal court until he found out whether or not a State law or a State decision would take care of him in these three sections outlined ahead of others?

Mr. RAY. It does not work that way, sir.

Mr. ROGERS. That is the point I am trying to make.

Mr. RAY. The Attorney General will test this question by bringing this case into Federal court. That court would immediately decide: is there or is there not a speedy, efficient, and adequate remedy in the State court? If there is, that court would not exercise further jurisdiction, but the Attorney General will quickly do that.

Mr. ROGERS. Would that limitation nullify sections 1, 2, and 3 of this law that we are now amending?

Mr. RAY. Those, I understand, are the substantive provisions of the law. These are the procedural ones.

Mr. ROGERS. It is substantive law now, and all we are doing is giving the right to the Attorney General to move in and get an injunction.

Mr. RAY. That is right.

Mr. ROGERS. Heretofore, we did feel that he had no authority to get the injunction but this gives him the authority to get the injunction.

Your point is that before an injunction can be granted, one of the prerequisites is that the Attorney General of the United States must show that he does not have a plain, speedy and adequate remedy under the State law.

Mr. RAY. That is an allegation in his complaint.

Mr. ROGERS. Yes, and he must sustain that if he is to obtain the injunction.

Mr. RAY. That is right.

Mr. ROGERS. Would not that in fact weaken the right of the Attorney General to enforce?

Mr. RAY. I do not think so, sir. It seems to me that this would give the Attorney General the right to go into a Federal court where he needs that remedy and, where he does not need to go into court to have that remedy, the case would be where it belong in the State court, as I see it.

Mr. ROGERS. We are dealing with a Federal statute. This first, second, and third part of section 198 that we are adding is a remedy to proceed under a new existing Federal statute. But in order for the Attorney General to enforce a Federal law, you would require him to ascertain whether or not the man has an adequate remedy in the State court. If he does not, then the Attorney General can proceed.

Mr. RAY. Whether the man or the Attorney General has a remedy in the State court. I think that is a pattern which it would be sound to follow in other civil-rights legislation. I am sure we are going to have more civil-rights legislation.

Mr. ROGERS. I just wanted to be sure I clearly understood what you had in mind, because we may get into a conflict, to my way of thinking, between Federal jurisdiction and State jurisdiction. As you and I know as lawyers, once the Federal court has jurisdiction, it is to the exclusion of everybody else. Here you are putting a strain that before the Federal court can take jurisdiction, it has to be satisfied that the State court does not have.

Mr. RAY. That is right. It has worked well in other cases involving Federal court jurisdiction over Federal questions.

The CHAIRMAN. As I understand it, you relegate the party aggrieved to a State remedy first. He goes into a Federal court and finds he has an adequate remedy in a State court, he cannot continue in the Federal court. Is that your point?

Mr. RAY. Yes.

The CHAIRMAN. I think most of the States provide that before you can have a State remedy in a State court, you must exhaust administrative remedies. That would mean he would have to go through the process of endeavoring to get administrative relief in those States that have that requirement before he could go to the State court.

Mr. RAY. I am perfecly certain in my own mind, sir, that no Federal court would say there was an adequate, speedy and efficient remedy in the State courts if that remedy involved the succession of administrative steps that you are speaking about.

The CHAIRMAN. There is no certainty as to that kind of ruling. A Federal judge might rule there is an adequate remedy. If that were so, I want to read you a provision from the report of this committee accompanying the bill that bore my name last year, which reads as follows:

The Committee on the Judiciary of the House of Representatives realizes that ofttimes justice delayed is justice denied.

Mr. RAY. I think you have disposed of the administrative remedy problem by the language that is left in the bill.

The CHAIRMAN. I get your point.

Mr. ROGERS. I understand you are in favor of H. R. 1151 with that amendment.

Mr. RAY. Yes, sir.

Mr. ROGERS. Would you go further or have you had an opportunity to examine Mr. Celler's bill, H. R. 2145?

Mr. RAY. These hearings have come a little faster than I anticipated, and I am not ready to talk about that, sir.

The CHAIRMAN. Are there any further questions? If not, thank you very much, Mr. Ray. We appreciate your coming here.

Mr. RAY. Thank you very much.

The CHAIRMAN. Our distinguished colleague, Mr. Machrowicz is here.

STATEMENT OF HON. THADDEUS M. MACHROWICZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. MACHROWICZ. Mr. Chairman, knowing the limitation of the time this committee has I do not want to transgress on the committee's time. I ask unanimous consent to extend my remarks in the record, and wish to advise the committee that I firmly believe that action and early action is needed by this session of the House. I feel that we have in the House in the last session adopted a bill which was bipartisan and which, although it did not satisfy all parties concerned, had very strong support in the House. I believe any bill that comes out of the committee should have most of the provisions of the bill that came out of the House last year. I urge the committee to take as early action as possible, and I hope the House will follow.

The CHAIRMAN. Thank you. You have the right to extend your remarks.

(The statement follows:)

STATEMENT OF HON. THADDEUS M. MACHROWICZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

I appear here this morning in full support of early action on adequate civil-rights legislation. I understand the committee has before it several bills. I support fully the provisions proposed at the last session by your distinguished Chairman, the Honorable Emanuel Celler. I realize, however, that there has been some controversy about some of these provisions.

At the closing moments of the last session, your committee voted out a civil-rights bill which did not, in my opinion, fully cover all the problems which were to be covered. It did, however, constitute a great step forward. It had bipartisan support and was adopted by the House by a good majority. Unfortunately, it died because of failure of the other body to act on it. Because of our tardiness in acting on it, we members of the House must share some of the responsibility for that failure.

This year we cannot afford to make the same mistake. I sincerely hope and trust that your committee will act, and act quickly. The minimum requirement of any bill to come out of the committee, in my opinion, is that it at least contain all the provisions of the bill passed by the House last year. I have great confidence in your distinguished chairman, the Honorable Emanuel Celler, and in the committee membership, and hope to see an adequate bill before the House in the near future, so that we can all fulfill our solemn obligation on this important issue.

The CHAIRMAN. Our distinguished colleague from North Carolina, Mr. Shuford, is here.

Mr. SHUFORD. I have no statement to give to the committee, but the Governor of North Carolina has sent Mr. Edward Scheidt to testify before the committee. I simply want to introduce Mr. Scheidt to the committee. He is now commissioner of motor vehicles in North Carolina. He served with the FBI from 1931 to 1953. He was with the New York office for 6 years, and then he was in Charlotte, N. C., for several years. He is also a member of the International Association of Chiefs of Police. At the present he is also serving as chairman of the committee on enforcement and safety of the American Association of Motor Vehicles.

Mr. Scheidt is here to testify for the Governor of the State of North Carolina.

The CHAIRMAN. Mr. Scheidt, we are very, very happy to have you here. I do remember when you were in charge of the New York office of the FBI.

STATEMENT OF EDWARD SCHEIDT, NORTH CAROLINA COMMISSIONER OF MOTOR VEHICLES, RALEIGH, N. C.

Mr. SCHEIDT. Thank you. Mr. Chairman, at the outset allow me to express my appreciation for the courtesy of this committee in giving me an opportunity to be heard.

The CHAIRMAN. Have you a prepared statement?

Mr. SCHEIDT. Yes, I have. I would be delighted to furnish copies to the committee so that they can follow me as I go along. I have additional copies for the press.

The CHAIRMAN. You may proceed, Mr. Scheidt.

Mr. SCHEIDT. Mr. Chairman, my testimony is directed in opposition to House bill 2145. It is my understanding that there are many other civil-rights bills that have been introduced in the Congress, and I have not had an opportunity of examining all of these other bills, and I would suggest to the committee that any of the comments which I might make with reference to H. R. 2145, which might also be applicable to any of the other bills, be considered as also in opposition to any other such bills.

Mr. KEATING. Mr. Scheidt, you have not had an opportunity to examine H. R. 1151?

Mr. SCHEIDT. No, sir, I have not.

Mr. KEATING. That is the bill which was reported out of this committee last year, and which with some amendments passed the House. If I am permitted a prognostication, H. R. 2145 will not be reported out of this committee.

The CHAIRMAN. If I may be permitted to make a prognostication, H. R. 2145 will be reported out of committee.

Mr. KEATING. If it is reported out, it will contain the words of H. R. 1151. It will be nothing but a number with the other bill in there as the bill.

It would be very helpful to us if you would direct your remarks to H. R. 1151, which is quite different from H. R. 2145.

The CHAIRMAN. I think the witness may as he unfolds his statement cover not only H. R. 2145, but H. R. 1151, and other bills. There are forty-five-odd bills dealing with the same subject. You might proceed.

Mr. SCHEIDT. Mr. Chairman, I might say it is my understanding from what I have been told that there are certain features in common in these bills, and therefore when I testify with respect to 2145, something of what I may have to say may also be applicable to the bill the gentleman has in mind.

Mr. KEATING. That is probably true, but I notice in your first paragraph you have a Pandora's box. That may apply to 2145, but in my judgment it does not apply to 1151.

Mr. SCHEIDT. You have not heard my statement yet, sir. Perhaps if you had heard my statement you might agree with me.

Mr. KEATING. I doubt it, but I am delighted to have you here.

The CHAIRMAN. Proceed.

Mr. SCHEIDT. I speak to you as a law-enforcement officer with more than 25 years' experience and I say that this is a bad bill. It is worse than that. It is a Pandora's box which threatens to shake the very foundations of law enforcement in the United States.

The effect of this bill would be to create a national police force to supersede and sit in judgment upon the actions of local and State law-enforcement officers in almost any kind of case they might handle, regardless of the fact that it may be of a purely local nature and should not be of any interest or concern whatever to the Federal Government.

The tremendous strides which have been made in law enforcement in the United States have been based upon the fact that enforcement stems from the local level where local matters are concerned, and branches out to the State and national levels where the nature of the offense makes State or national enforcement necessary. This has led to a splendid spirit of cooperation among the local, State and Federal law enforcement agencies in our country. In my judgment this bill would destroy this cooperative spirit. Instead of each type of law enforcement agency operating in its own sphere, any arrest made by a local officer for a local offense could conceivably be subject to scrutiny by the Federal Government. Every officer making such arrests might well ask himself whether it would not end in his being investigated and tried by the Federal Government for an alleged violation of the civil rights of the person he took into custody. No matter how meticulous he might be in the enforcement of local or State laws, he would run the risk of being accused by persons arrested by him of having deprived them of some right under the Constitution. In fact, this bill would be an encouragement for any malefactor to divert attention from his own offense by calling upon the Federal Government to proceed against the local officer who had the temerity to arrest him. This is a bill to harass officers in the performance of their duty and impair their efficiency and morale by making them spend an inordinate part of their efforts in defense of their own actions in the protection of life and property.

The logical result of this type of legislation would be to undermine the pride of the officer in his work and the prestige of his organization. In the last analysis, he would not be judged by how well he enforced the laws of his community and State but by the interpretation placed on his actions by someone in the Federal Government in Washington, D. C., for that is where the decisions would be made whether a local officer arresting a local citizen for a local crime would be tried in a distant Federal court.

The CHAIRMAN. Do we not have that situation arise very frequently by way of several local crimes being decided in a Federal court? You as a former FBI officer know that you had the enforcement of the Mann Act, the enforcement of the kidnaping act, and the enforcement of the various narcotics acts, the enforcement of the recent fireworks act, and the enforcement of the liquor laws and so forth. Those crimes are committed in local terrain and sometimes tried in distant Federal courts.

Mr. KEATING. And the enforcement of existing civil rights legislation on the statute books at the present time.

Mr. SCHEIDT. Mr. Chairman, if you will permit me, I would prefer to finish this statement, for the reason that I develop this part later on in the statement.

The CHAIRMAN. Very well. We will be glad to have your statement.

Mr. SCHEIDT. The conscientious local officer doing his best and complying fully with the rules and regulations of his Department, local ordinances and state laws, would be placed under a sword of Damocles, knowing that his every act might be microscopically examined by the Federal Government at the instigation of criminals, psychopaths, pressure groups or anyone who wanted to make trouble for him, no matter how correct the officer might have been in his actions. If the Federal Government is to pass judgment on any arrests which a local officer may make and substitute its judgment for that of the officers, prosecutors, and judges of a community and state, would it not be better to abolish state and local enforcement and let the Federal Government take over the entire job of policing the United States? The people of the United States would never stand for that, and yet it would be more logical than this bill which places the control of local police work but not the responsibility for it in the hands of the Federal Government. If the Federal Government is to control all law enforcement, then it should have the responsibility for doing the job, too.

This proposed legislation in my judgment is an encroachment of the Federal Government upon the powers of state and local governments. This is a law to deaden the initiatiev of local law enforcement officers. If the Federal Government is to peer over the shoulder of every local law enforcement officer and drastically punish him if he does not conform to the concepts of a Federal official far from the scene, will not the officer hesitate to take needed action for fear that he himself would be made to suffer? The easier and safer way would be for him to attempt to avoid making arrests and thereby prevent such repercussions.

Not only does this legislation place the Federal police authorities in a supervisory capacity over local enforcement, but it also makes a direct invasion of local jurisdiction and undermines the existing authority of local enforcement to deal with local problems by placing

such matters within the primary investigative jurisdiction of the Federal Government. It is an open invitation to any complainant to circumvent the local governmental facilities by dealing directly with the Federal authorities regarding violations of local and State laws without any showing that the State laws are inadequate or not properly enforced. This would create a situation as confusing as it is unnecessary since the question of whether a case would be tried in Federal or State court would depend not so much upon the facts as upon the agency to which the violation was reported. This feature of the law easily result in persons being placed in double jeopardy; nowhere does the act contain any provision to exempt persons from prosecution in Federal court if they have been tried in State court for substantially the same offense.

This is a law to incite litigation and under its provisions persons are encouraged to bring suit for damages in Federal court without regard to the sum in controversy, notwithstanding the fact that if they had been injured or wronged, a cause of action would exist under State laws.

The CHAIRMAN. Let us go back to your statement:

This is a law to incite litigation and under its provisions persons are encouraged to bring suit for damages in Federal court.

That is the law today. The old statutes that we passed gave the right to bring an action in the Federal court for civil damages for certain rights taken away from them. That is the law today.

Mr. SCHEIDT. Mr. Chairman, I compared this statute with the statute which it purports to amend, and I fail to find this provision—subsection (c) under section 201 of United States Code 18—the section of the United States Code that I was looking at failed to show this law.

Mr. KEATING. An individual has a right to bring a suit today for infringement of his constitutional rights. There is nothing new at least in H. R. 1151's remedy given except to give the Attorney General the right to do the very thing an individual can do today.

Mr. SCHEIDT. I would hope I could answer that type of question after I have given my presentation, because I think I have an answer. Even though it is in existing law, it has not been spelled out in this atmosphere. My statement to which the chairman called attention was to the effect that this is a bill to incite litigation. I think it is quite evident under the circumstances by which this is incorporated in the law. I say again this precise provision which is added to the code is not in the United States Code at the present time.

The CHAIRMAN. The chairman wants to point out that if you look at title 42, United States Code, section 1985, you find spelled out certain remedies. They are very, very succinctly spelled out, which empower the person who is aggrieved to bring action in the Federal court regardless of the amount involved.

Mr. SCHEIDT. Thank you, Mr. Chairman.

The CHAIRMAN. Go ahead. I think we will be courteous to you and allow you to finish.

Mr. SCHEIDT. In the context of this bill with all of the far-reaching provisions this assumes a meaning that is far greater than its present meaning under the existing law.

Let us examine some of the specific provisions of the bill: It would create a Civil Rights Commission, which among other functions,

would appraise the activities of State and local governments with a view to determining what activities adversely affect civil rights. Has not the Federal Government enough to do in appraising its own activities? What are the qualifications of the persons who will do the appraising? None is stated. Is it not the height of presumption for such a body to pass judgment upon State and local governments? What is the basis for the assumption that a Civil Rights Commission would be competent to do this? What is the basis for the assumption that such a body would have greater knowledge, ability or integrity than the local and State public officials? Is not this Commission by its very nature susceptible to becoming a creature and tool of pressure groups? It is noted that the bill provides that the Commission shall, to the fullest extent possible, utilize the resources of private research agencies in the performance of its functions. Finally, would not this Commission assume the status of a super law-enforcement agency?

By its provisions that the personnel of the FBI shall be increased to the extent necessary to carry out effectively the duties of such Bureau with respect to the investigation of civil rights cases under applicable Federal law, the bill reveals the fact that it anticipates a substantial increase in civil rights investigations by the Federal Government. It is noted that no limitation whatsoever is placed upon the amount of increase in personnel and certainly if the Federal Government assumed jurisdiction of every case which this statute would permit it to do, the size of the FBI could be doubled and it would still not have enough men to handle all the investigations.

The bill provides that if any person threatens another in the free exercise of his rights under the Constitution or laws of the United States he may be fined $1,000 and imprisoned for 1 year. It is not necessary that the aggrieved person be injured or intimidated. Constitutional rights are so broad and cover such a multitude of possible situations that it is conceivable that the participant in an argument or disagreement with no notion whatsoever that he was trespassing on someone's constitutional rights would be amenable to Federal prosecution under this law. This provision is moreover an open invitation to anyone so disposed to use the Federal Government for the ulterior purposes of annoying or embarrassing anyone against whom he has a grievance.

The wording in the bill listing numerous rights, privileges, and immunities which are not to be deprived under color of law or custom is so broad and all inclusive as to open the door to challenge the operation of laws and regulations which only by the wildest stretch of the imagination would have any bearing on civil rights. All that is necessary to subject an arrest, conviction, decision or ruling to Federal investigation would be a contention by the affected person that in administering a valid law or regulation the authorities proceeding against him for some other reason (such as color, race, religion, or national origin) than the enforcement of the law or regulations. The fact that the allegation of discrimination was groundless would not prevent it from being made nor would it prevent a Federal investigation.

The bill would guarantee the right to be immune from punishment for crime except after a fair trial. This right is already guaranteed under existing State and Federal laws, and is inherent in any

trial and where infringed would be a basis for appeal to higher courts. This provision would result in duplicating the reviews already being made by higher courts and in effect try the same case twice. The question might well be asked in the context of this far-reaching bill as to what is meant by a fair trial. It is a well known fact that many persons, no matter how overwhelming the evidence against him, will maintain that they did not receive a fair trial if convicted of a criminal offense and will pursue to the *n*th degree efforts to have the verdict set aside. Penitentiaries are populated by individuals who think they ought not to be there. As has been said: "No man e'er felt the halter draw, with good opinion of the law."

The evil in the fair-trial provision as well as the provisions regarding other specific rights, privileges, and immunities, is that it is an invitation to try the identical issues in a different tribunal and to duplicate jurisdiction over matters already fully protected under existing law and which by all logic and reason ought to be passed upon in connection with the trial of the substantive offense against the person who contends that his constitutional rights have been infringed.

There may be persons in the northern, eastern, or western parts of our country who feel that they need not be concerned over this bill under the complacent assumption that it is directed against the South. If such there be, their callousness and complacency is exceeded only by their naivete. This bill will bring the heavy hand of a national police force upon every community and State in the Nation. Its application is not limited to situations affecting race, color, religion, or a national origin. It is a frontal attack upon the police powers and responsibilities of all local and State governments.

The CHAIRMAN. Are there any questions?

Mr. KEATING. You still have not met any of the questions that were asked of you at the beginning, Mr. Scheidt. This statement, particularly the last paragraph which borders on the insulting, is not helpful to the committee in its consideration of the legislation before us.

Let me make clear to you, I come from the North, and I am, if anything, more exercised over the deprivation of civil rights of our citizens in northern communities, which exist, and which I admit exist, than I am over those in any other part of the country. This is a bill which is desiged to insure the bare minimum civil rights of our citizens in all parts of the country. Most essentially that most basic right, the right to vote.

I wish you would direct your attention to H. R. 1151, or the provisions of H. R. 1151, which is the bill which was reported out last year, and the one which in my judgment is the most likely to receive the favor of this Congress.

The section relating to further strengthening of the civil rights of our citizens; namely, part 3 on page 6, simply adds to existing law a provision that the Attorney General may bring a proceeding to enjoin acts which are already declared illegal in the law. There is no additional right given under that section. So your statement on page 3 that it is a law to incite litigation and to encourage people to bring suit seems to me to be wide of the mark, because there is nothing whatever in here except that it gives the Attorney General the right on behalf of a party injured to bring a civil action—a civil action, not a criminal action. But if law-enforcement officials of a community are conspiring to deprive people of their rights, they should be subject

to exactly the same rules that anyone else would be if they deprived people of civil rights.

I do not understand your contention that this would stir up litigation. What specific respect would this legislation stir up litigation?

Mr. SCHEIDT. Mr. Chairman, the gentleman is addressing his remarks to a bill that I have not reviewed and am not familiar with. I was discussing this 2145. I might add that I was discussing the criminal provisions and not the civil provisions. Anything having to do with injunctions I do not consider I am a person of special qualifications to discuss.

Mr. KEATING. Then let me make clear to you that there are no criminal penalties whatever in H. R. 1151. One of the contentions that some of us make is that criminal sanctions are frequently not appropriate—probably not, in most cases, or perhaps in most cases not appropriate—to the enforcement of these civil rights. It is difficult to obtain convictions under criminal statutes. It would be conducive to better law enforcement if a civil right to enjoin these were given, rather than to punish action after the fact. Therefore, all of the bill which was reported out last year had to do with the granting of civil rights to restrain an alleged illegal act, not anything to punish any act after it was done.

The extravagant statements which you made in your presentation to us do not seem to me in any way to be applicable to H. R. 1151. We have been confronted so often with that. We get it in our mail that the passage of this law is going to do away with States rights and is going to stir up litigation, it is going to strike at the foundations and bedrock of our national life, and all of these other statements which may apply to some bills and may have some pertinency to some of the suggestions of a legislative character that have been made, but they do not apply to a moderate bill such as the one that this committee reported out last year.

It would be very helpful to us if you would send to us—I am sure the chairman would be glad to put it in the record—any comments which you might have directed to H. R. 1151.

The CHAIRMAN. If you might follow the suggestion of the gentleman from New York and examine that bill, then you may submit your views to us, if you care to.

Mr. SCHEIDT. Thank you. Mr. Chairman, he asked me a long question. Could I direct my attention to his question?

The CHAIRMAN. Yes.

Mr. SCHEIDT. Surely the gentleman who referred to my remarks as "extravagant" when he took them in the light of his bill could not so describe them with relation to what I am saying about this particular bill which I am discussing, which does contain many criminal provisions.

Mr. KEATING. I will say perfectly frankly that I think the gentleman's statements are extravagant on any bills we have before us. But their extravagance reaches a point of ridiculousness when it applies to H. R. 1151. I grant you that the bill you have been talking about has other provisions in it, some of which I personally happen to be in complete agreement with. However, as a practical matter, I think that they go too far. I do not think it is practical that they can be enacted in this Congress. I do not think we need to talk about them at this time.

The CHAIRMAN. I think we should talk about them, and the more discussion we have, and the more we try to hammer out the tools on the anvil, the better we can approach the truth.

Mr. KEATING. I did not mean we should not talk about them.

The CHAIRMAN. I understand. You certainly used rather tall and mighty language concerning the Commission that is to be set up. I think practically all of these bills provide for a Commission on Civil Rights to be appointed by the President.

We have many commissions, as you know, which have their study directed to local conditions. You are worried that this Commission might interfere with the ability or the integrity of local and State officials. We have commissions on housing which delve into local matters. We have a commission on slum clearance. We have commissions on schools. We have them on various facets of agriculture—drought, for example—we have commissions on national security, National Guard, and kindred subjects. You would not want to say that there should not be any commissions appointed by the President; would you?

Mr. SCHEIDT. No; indeed. I certainly am aware as the chairman points out that there are in existence today numerous Federal commissions. My objection to this Commission is in the light of the entire context of this bill which starts out in the preamble by stating a policy of Goverment, and goes on with the appointment of a Commission and says what the Commission shall do and evaluate what State and local governments will do. It points out that the Commission is to make recommendations on individual cases and specific matters from time to time.

In the same bill there are provisions made for enlarging the investigative staff of these types of cases, creating of an additional division in the Department of Justice. My reaction to this Commission is in the context of the entire bill which suggests to me these possibilities.

The CHAIRMAN. The Commission, if its acts, might act in your favor. It might say that the bill passed has too many drastic provisions and those provisions might well be moderated. The Commission is to be set up so that it might evaluate not only what has been done but what should be done in the future. It might work in your favor from your point of view.

Mr. SCHEIDT. From my point of view, I do not believe it matters which way it works, whether it is in my favor or against me, as you put it. I do not believe the Commission should be adopting a possible status of a super law enforcement agency evaluating what local law-enforcement agencies are doing in specific cases.

The CHAIRMAN. There is nothing in the forty-odd bills that gives the Commission law-enforcement powers. There is none whatsoever.

Mr. SCHEIDT. It is pretty broad, Mr. Chairman. As a matter of fact, I asked a number of questions about this Commission which troubled me. I hope the committee has the answers. I do not.

Mr. ROGERS. Directing your attention to your statement, I believe you confined it to H. R. 2145. On page 1 of your statement you say:

> A national police force to supersede and sit in judgment upon the action of local and State law-enforcement officers in almost any kind of case that they might handle, regardless of the fact that it may be of a purely local nature and should not be of any interest or concern whatever to the Federal Government.

Do you have a copy of H. R. 2145 before you?

Mr. SCHEIDT. Yes, sir.

Mr. ROGERS. Would you point out to this committee where we first create a national police force?

Mr. SCHEIDT. There is no specific language in the bill or no reference to a national police force. I refer to the effect of the bill.

Mr. ROGERS. You say there is nothing in the language of H. R. 2145 that creates a national police force?

Mr. SCHEIDT. No. I say there is no specific reference to a national police force in the bill.

Mr. ROGERS. Where in the bill do you spell out the national police force?

Mr. SCHEIDT. I start out first of all by the additional spelling out of existing Federal statutes. For instance, title 18, United States Code, section 241, page 10 of the bill, on the bottom of the page. As far as I know, that is new law.

Mr. ROGERS. You mean on page 1, line 20:

(b) If any person injures, oppresses, threatens, or intimidates any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States * * *

Mr. SCHEIDT. That is the one. They put him in jail for a year or fine him a thousand dollars.

Mr. ROGERS. Just a moment. The offense there is where you deprive anybody of the privilege secured to him by the Constitution. That means the Constitution of the United States.

Mr. SCHEIDT. Yes, sir.

Mr. ROGERS. Or laws of the United States.

Mr. SCHEIDT. Yes, sir.

Mr. ROGERS. Would you have any inhibition against enforcement of the Constitution and laws of the United States?

Mr. SCHEIDT. None whatsoever.

Mr. ROGERS. Would that in any manner interfere with the local laws that are now in existence?

Mr. SCHEIDT. Yes, I think it would.

Mr. ROGERS. In what manner?

Mr. SCHEIDT. I would like for the committee to visualize two situations. There are two men who are assaulted. One man was assaulted because of some type of disagreement with the other fellow on a money matter, let us say. Then visualize a second case of assault and the victim of the second assault contends that this assault was predicated upon some infringement of his constitutional rights. Basically, the real element of both offenses is that somebody got assaulted. The motive in the assaulting is in my opinion not the controlling factor there. These people should both be dealt with for the assault.

Mr. ROGERS. That is true, but if the assault was made because of race, color, or creed, would you say that it should be dealt with locally or should the Federal Government protect his rights under the Constitution?

Mr. SCHEIDT. I think regardless of the reason the man was assaulted, he ought to be tried for assault.

Mr. ROGERS. Assume that he is, but if he makes the attack and the assault because of color, race, or creed, do you not think that is a violation of the Federal law?

Mr. SCHEIDT. I say that the basic offense, from the time this country was first founded, was the assault which is a violation of criminal law. It is only late in the game that we take on substantive assault and then say the motive for that assault shall result in a different tribunal and different penalties.

Mr. ROGERS. Of course, in order to be guilty under this section, if he is taken to Federal court, it would have to be shown that he was deprived of some right under the Constitution of the United States, or some Federal statute before he could be convicted.

Mr. SCHEIDT. Yes, sir.

Mr. ROGERS. And you recognize that he is entitled under this to a trial and that would have to be proved against him.

Mr. SCHEIDT. Yes, sir.

Mr. ROGERS. Would you have any objection if the proof was overwhelming that the assault was made because of race, color, or creed that he should not be punished under the Federal law?

Mr. SCHEIDT. I think he should be punished under the law that applies to assaults.

Mr. ROGERS. But if it violated his constitutional rights or a Federal law would you still say that he should not be punished under Federal laws?

Mr. SCHEIDT. I think if the main thing involved was the assault, it should be handled as an assault. I do not believe that we should extend the power and activities of the Federal Government to take over the assaults of the United States merely because of a certain type of motive in the assault.

Mr. ROGERS. Then how would you propose the Federal Government enforce its Constitution and give to persons their rights under the Federal law and under the Constitution except by prosecution in a Federal court.

Mr. SCHEIDT. I would say again that if somebody is assaulted, that is an assault case, and it should be handled as an assault case, and you are going in by the back door to take the motive. There are many motives for assault. This is one of them. If the criterion of prosecution is the particular motive for committing an assault, it is foreign to the method of operations over many hundreds of year.

Mr. ROGERS. Let us assume that the assault constituted a violation of his constitutional rights, and of a Federal law, and at the same time you have a State law which says that assault and battery constitutes a violation of the State law. Do you now take the position that the Federal Government should not prosecute its case because there is a State law that defines assault?

Mr. SCHEIDT. I am not sure I understood the gentlemen's idea. It is my understanding that there are penalties against assaults in all jurisdictions at the present time.

Mr. ROGERS. Yes. There are penalties against assault in 48 States, and there are State laws dealing with them. If an assault is predicated because of race, color, or creed, and for no other reason, which would be in violation of these sections that we are adding to, do you think that the Federal Government should not prosecute because there would be a prosecution or supposed to be a prosecution in the State court?

Mr. SCHEIDT. I am inclined to think that the greater evil would exist by the Federal Government intruding itself into this picture and taking

over assaults on the theory that they involve constitutional rights. I think that should be handled by the States.

The CHAIRMAN. May I interrupt a minute? Suppose we had this case, that the man who does the assaulting is a white man, and the man who is assaulted is the colored, there is no doubt about the violation of the State law, but because the man is white the State prosecuting officials do not molest him, do not arrest him or bring him to book; would you say then that the Federal Government would have a right to interfere to protect the man's constitutional rights—that is, equal protection under the law?

Mr. SCHEIDT. Mr. Chairman, I would be troubled by that situation if it existed. I am not aware that it does exist. There are difficulties involved in the investigation and conviction of persons for any type of major crime. The violations of civil rights are merely one of many major crimes. In my opinion, there is a very constructive approach that can be made to the problem which you have outlined, which is contrary to the approach here made. I believe very firmly that the welfare and strength of our country from an enforcement standpoint hinges upon the manner in which we can strengthen and develop law enforcement from the local level. Today it is a national disgrace that our police are underpaid and undermanned and often untrained. If we lend our strength to the building up of enforcement on a local level, I am satisfied that not only would there be fewer instances of the type you described, but there also would be fewer instances where people who committed murder, robbery, rape, or aggravated assault were likewise not successfully convicted.

The CHAIRMAN. That is a creditable statement, but we have instances where enforcement on a local level has deliberately failed because of prejudice of one sort or another. Where there is that failing, do you not think it is essential for the Federal Government to step in to protect the citizen and his rights under the Constitution? Do you not think it is essential for the Federal Government to step in someway to protect the citizen on his constitutional rights?

Mr. SCHEIDT. I would try to answer that question this way. I am not aware of the fact that the instances of unsuccessful prosecutions for this type of violation are any greater than they are for such things as murder, robbery, rape, or aggravated assault, and there is no demand for the Government at this point to go in on the ground floor and investigate robberies, murders, and so on, on the theory that people are escaping prosecution. It seems to me that these are all crimes and should be regarded together. If there is a motive behind the assault, it is a crime just as if it were some other type of violence.

The CHAIRMAN. We read in the press about raids and armed attacks on nonsegregated busses, we read of the bombing of Negro churches, and the homes of Negroes and even white citizens, like those led by Rev. Martin H. L. King, Jr., and certainly those outrages stem, shall we say for lack of better terms, from prejudice of one sort or another. We have violence reaching that degree. Apparently it seems that the State enforcement officers are loath or unable to cope with the situation. When you consider further that that kind of brush fire might spread and create inordinate damage, do you not think the Federal Government must step in at some stage?

Mr. SCHEIDT. Mr. Chairman, I certainly do share your abhorrence against prejudice and violence in the situations you described. I do

not know all of the individual pertinent facts, but if there are individuals who commit violations or crimes affecting individuals' civil rights, the larger view is to consider these things as crimes that are in the category with other crimes. I am not aware of any evidence which has been adduced to the effect that there is a smaller percentage of convictions, for example, in civil-rights violations than in other cases.

I happen to know, for example, in our own State of North Carolina just a few years ago under State investigation and in prosecution in State court, a total of 65 people were convicted in a Ku Klux Klan activity, and a beautiful job was done in that case. We in North Carolina feel that we are just as much interested in civil rights as anyone in the country. We do not approve of and will not condone and will vigorously investigate and detect and prosecute evidences of violence in these situations that you have described.

Mr. ROGERS. As I understand you object to this legislation on the theory that the Federal Government should not step in and enforce the civil rights. Is not that the reason that you object to this legislation?

Mr. SCHEIDT. I think that is putting it entirely too short.

Mr. ROGERS. Is not your objection to this legislation on the theory that the civil rights will be enforced in the Federal court?

Mr. SCHEIDT. I think where jurisdiction exists in the local courts and where local offenses are involved, it is far better to proceed in that manner.

Mr. ROGERS. I agree with you on local offenses; yes. But this is an offense, as I read this bill, where it is a violation of the Constitution of the United States, or a Federal law. The question I get back to is this: Would you favor a prosecution of an individual who may violate the Constitution of the United States and the Federal law?

Mr. SCHEIDT. I would not favor the Federal Government prosecuting people in Federal court for aggravated assault cases which can be fully prosecuted under existing local laws.

The CHAIRMAN. Should you not then seek to change the 14th amendment? The 14th amendment speaks of equal protection under law. In common parlance that covers almost everything. It covers life. So even a simple assault might infringe that constitutional provision. Any kind of act might. Therefore, I think you should address yourself to amending the Constitution and changing the 14th amendment.

Mr. SCHEIDT. It seems that I am placed in a rather odd position here. Half the time I am questioned on the theory that this bill extends the investigating powers of the Federal Government, and the other half that it is already existing law. It seems to me that those two things are inconsistent. I think the chairman will concede that there are specific provisions in here about which there is considerable doubt as to whether they are Federal violations at the present time.

Mr. ROGERS. At the present time, under this section 241 (a) which is on page 10, it defines:

> If two or more persons conspire to injure, oppress, threaten, or intimidate, any inhabitant of any State, Territory, or district in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States.

That is the present law.

Mr. SCHEIDT. Yes, sir.

Mr. ROGERS. By section 241 (b), substantive crimes, if a person injures, oppresses, threatens—that is individuals, not a conspiracy—any inhabitant of a State, Territory, or district in the free exercise or enjoyment of any right or privilege secured by the Constitution or laws of the United States.

Now I get back to the question, Are you objecting to the punishment of an individual who may deprive another individual of his free exercise or enjoyment of any rights or privileges secured to him by the Constitution or Federal laws? Are you objecting to that kind of prosecution?

Mr. SCHEIDT. I am objecting to the extending of this law to apply to these isolated individuals quoted in paragraph (b).

Mr. KEATING. Let me ask you a question along that line. You are a lawyer.

Mr. SCHEIDT. Yes, sir.

Mr. KEATING. What is the supreme law of the land?

Mr. SCHEIDT. The supreme law of the land is the Constitution as interpreted by the Supreme Court.

Mr. KEATING. If a person violates that supreme law of the land, and at the same time violates a statute of North Carolina or New York or some other State, should not the ones responsible for the enforcement of the supreme law of the land have equal rights to enforce those laws with the State authorities?

Mr. SCHEIDT. Yes, sir. As a matter of theory. But to apply this to isolated individual threats made by one person, it is mighty late in constitutional construction to proceed in that manner. We have had the Constitution a long time. Here in the year 1957, as I understand your point, you are taking the position that this law has been in effect all these years.

Mr. KEATING. No; I do not say that this section (b) we have been talking about has been in effect. The preceding section is, that if you conspire to do these things, you violate the law, that has been in effect, and your civil remedies. While this criminal penalty is not in the bill which I am happy to be sponsoring, it does not in any way bother me that if I violate or injure somebody or threaten or intimidate him, in the free exercise of his rights under the supreme law of the land, that I should be subjected to a fine by the Federal authorities, just because I happen also to be subject to a fine or imprisonment by local authorities. What did you do with narcotics violations that you were charged with enforcing that were sometimes State offenses?

Mr. SCHEIDT. I did not handle narcotics.

Mr. MCCULLOCH. The Lindbergh Act.

Mr. KEATING. There is plenty of authority for this idea, that you may do an act which violates a Federal law and at the same time a State law.

Mr. SCHEIDT. I am not arguing you cannot do this. I am saying I do not think it ought to be done.

Mr. MCCULLOCH. Mr. Chairman, I would like to ask the witness this question. Had you been a Member of Congress when the Lindbergh Act was up for consideration, would you have voted for it or against it?

Mr. SCHEIDT. That is quite a hypothetical question. I will try to answer it as best I can. I am inclined to think that I would have voted in favor of the bill.

Mr. McCULLOCH. The violation of that Federal law could well be, and would also be a violation of every State law in the land, would it not?

Mr. SCHEIDT. I think you have an entirely different situation.

Mr. ROGERS. What is the difference?

Mr. SCHEIDT. The Lindbergh law does not apply unless there is interstate commerce involved. In other words, the victim is taken across the State line. We know that the local law enforcement is greatly handicapped in dealing with interstate crime, because they cannot operate as well in other areas, and out of their jurisdiction. So you see on the basis of the interstate angle, there you have a much stronger argument than you have in this case where the entire matter is of a local nature. The Federal Government does not have the power to handle local kidnapings where there is no interstate transportation. It would be analogous if the law made the substantive offense of kidnaping a Federal crime.

Mr. ROGERS. But the fact remains, Mr. Commissioner, that the kidnaping would be a local offense under every one of the jurisdictions of the 48 States of the land.

Mr. SCHEIDT. Yes, sir.

Mr. ROGERS. Now it is likewise a violation of Federal law.

Mr. SCHEIDT. Only if there is interstate transportation.

Mr. KEATING. Let me interrupt there to say that after 24 hours it is presumed to be in interstate transportation.

Mr. SCHEIDT. That is merely a presumption and can be overcome by the evidence.

Mr. MILLER. Do you not think that deprivation of right to vote for President of the United States in any one of the 48 States has interstate effect upon others in other States?

Mr. SCHEIDT. I am not directing my criticism of this bill to voting features. I am discussing solely the practical effects of this bill in its far-reaching provisions on law enforcement. I have devoted very little consideration to the voting aspects of the bill. This law has many broad provisions beyond those having to do with the exercise of the franchise.

Mr. KEATING. In other words, if you struck out the criminal penalties of this bill, you would not feel quite as badly as you do now.

Mr. SCHEIDT. That is partially correct, Mr. Keating. I would not be here, except for the provisions I discussed in my statement.

Mr. ROGERS. You have no apprehension, but what if this became a law that it would be enforced fairly and impartially as the Attorney General and the United States attorneys and FBI enforce all other Federal laws?

Mr. SCHEIDT. I know as far as the FBI is concerned it would. I am not so sure about the rest of them.

Mr. ROGERS. You are not so sure about the manner and method of enforcing?

Mr. SCHEIDT. The gentleman is aware of the fact that the decisions in these civil rights cases are made in the Department of Justice in Washington, D. C., as to what is to be done.

Mr. ROGERS. But you have no apprehension but that they will enforce it fairly, equally, and justly as they do all other Federal laws, do you?

Mr. SCHEIDT. I am sorry that you make me answer that question, because I do have grave reservations that perhaps a political appointee might be influenced by political considerations in these matters.

Mr. ROGERS. Is not that your chief objection to this? The manner and method by which it would be enforced?

Mr. SCHEIDT. It is certainly one of the main ones.

Mr. ROGERS. Not the fundamental?

Mr. SCHEIDT. I say again, gentlemen, there are many crimes committed in this country besides civil rights violations.

Mr. ROGERS. Let us eliminate the local part and say the Constitution of the United States and Federal law. Disregard the local, and if we confine it only to the Constitution and Federal law, then you would still object to it?

Mr. SCHEIDT. No, sir. As much as any member of this committee, I believe in the Constitution and in the enforcement of Federal laws applicable to the Constitution.

Mr. ROGERS. There is nothing in H. R. 2145 that deals with anything but Federal law, is there?

Mr. SCHEIDT. What they have done is to go a long way in stretching the meaning of the Federal law. Incidentally, I was hoping the committee might direct its attention to this "color of law" portion of the statute.

First of all, the statute has provided penalties for depriving anybody of his rights under the Constitution under color of law or custom. Then a little later on this law says that the Constitution shall mean certain things.

Mr. ROGERS. Where in this do we say that the Constitution shall mean certain things?

Mr. SCHEIDT. Page 12, line 16, section 242 (a):

The rights, privileges, and immunities referred to in title 18 United States Code, section 242, shall be deemed to include the following.

If you refer to that section of the code, it says who under color of any law deprives somebody of a right under the Constitution.

Mr. ROGERS. You would have no objection to punishing that individual that deprives someone?

Mr. SCHEIDT. I am answering one question at a time. You asked me where it said it and I told you.

Mr. ROGERS. It is there. Would you have any objection to enforcement of the law?

Mr. SCHEIDT. I think this whole section is highly objectionable and repugnant to good law enforcement; yes, sir.

Mr. ROGERS. Thank you.

The CHAIRMAN. Mr. Commissioner, would you prefer that Congress remain silent and not seek to implement the 14th amendment by any statute, and then let the Supreme Court enforce the constitutional amendment as they did in school segregation?

Mr. SCHEIDT. Insofar as the criminal phases are concerned, that is all I am discussing. What I would like very much to see is for this committee and the Congress to recognize that criminal violations of civil rights are crimes, just as robbery, burglary, mayhem, rape, aggravated assault are crimes; and all of these crimes are bad. It is just as bad to kill somebody as it is to deprive him of his civil rights. These are part of a crime picture. Gentlemen, last year in the United States, it is my understanding that major crime went up 14 percent. It is my

understanding, further, that only about half of the people, on the whole, who committed these major crimes were actually apprehended; that is, these offenses were cleared by arrest. It is my understanding, moreover, that only about half, if you average it all up, of the people who were tried for major crimes were convicted. I doubt very much whether the cases they are losing in civil rights are any higher in proportion than the other major crimes. So whether a man commits a crime for the motive of depriving somebody of a civil right or for some other bad motive, it is still a crime. We must deal with the crime problem as a whole. This committee could render a great service to the country if it would take some action to strengthen the hand of local law-enforcement agencies, and recognize that we must develop police forces and pay them more money and see they are not undermanned, train them better, and get them to cope better, not only with civil rights offenses but all major crimes.

The CHAIRMAN. The minute we would do that, we would be accused of a violation of States' rights.

Mr. SCHEIDT. I assure you, if your committee took a stand like that you would not be accused of that.

The CHAIRMAN. We could not do that.

Mr. SCHEIDT. You asked what I would do, and I told you.

Mr. MILLER. How does that go to the solving of the problem, where there is no question of the fact that in certain States they have an adequate police force, well trained, but are loath to enforce the laws?

Mr. SCHEIDT. I know of no State where that exists. It is a known fact that everywhere the police are undermanned and underpaid.

The CHAIRMAN. Are there any other questions? If not, thank you very much, Commissioner. We appreciate your coming here. We may not agree with you completely, but we are deeply grateful for your contribution.

Mr. SCHEIDT. Thank you for the courtesy.

The CHAIRMAN. Our next witness is Mrs. Paul Blanshard, Washington representative of the Unitarian Fellowship for Social Justice.

STATEMENT OF MRS. PAUL BLANSHARD, WASHINGTON REPRESENTATIVE, UNITARIAN FELLOWSHIP FOR SOCIAL JUSTICE

Mrs. BLANSHARD. My name is Mrs. Paul Blanshard. I am the Washington representative of the Unitarian Fellowship for Social Justice. Our organization is a legislative and social action unit in the Unitarian denomination. It is nationwide, and includes chapters in the North and South.

In addition to our own modest and moderate statement, we have associated ourselves with the statement that Roy Wilkins is to make, and so I especially appreciate the courtesy shown me by the chairman and counsel in permitting me to appear here today.

I appear in behalf of our organization to urge upon the Congress speedy consideration of civil-rights legislation. This is especially urgent in the House, because the Senate is prone to linger over important legislation unduly.

I wish first to present a resolution on "brotherhood" adopted at the last annual meeting of the American Unitarian Association in May 1956.

Whereas Unitarians have an historic and frequently recorded obligation to uphold human brotherhood and freedom for all men;

Whereas the decisions of the United States Supreme Court dealing with compulsory segregation of the races have removed the legal sanctions of second-class citizenship in our land, and provided a mandate for all citizens to work for the elimination of segregation and the securing of their basic constitutional rights to all our citiezns;

Whereas men of good will of all opinions and persuasions are earnestly working to this end throughout our Nation, on local and regional levels; and

Whereas we recognize the difficulties of implementing a wise and just course of action which goes against the deep-seated emotions of a significant number of people;

Therefore be it resolved:

1. That we the delegates to the 131st annual meeting of the American Unitarian Association favor every attempt to meet and search for areas of agreement and mutual understanding among men of all races and persuasions and will ourselves foster and join with all such attempts;

2. That we respectfully urge the President of the United States, the Governors of the separate States, and all persons in civil authority to call and persistently support, within their respective jurisdictions, conferences of good citizens of all races in order that a groundwork of healthy communication may be established and just solutions to these problems may be found;

3. That we urge upon all governmental officials and agencies their duty to accord the full protection of the law to all citizens in the exercise of their rights, including the right to vote, and the other rights guaranteed by the Constitution of the United States, and

4. Finally that we call upon the Congress of the United States to enact such legislation as may be necessary to accord this protection wherever it is not provided by the local community.

The fellowship has worked cooperatively with other national organizations which look expectantly to this 85th Congress to enact civil-rights legislation. We not only support the President's program and the House bills that have already been introduced but we urge more specific measures to correct injustices and ensure to all of our citizens equal rights. We believe that Congress should enact an antilynching law, an antipoll tax law, and create a Fair Employment Practices Commission.

These civil-rights measures are not only long overdue in our democracy but they are imperative if we are to move forward as a strong united nation and if we are to hold a position of leadership internationally with other democratic nations.

My home is in Vermont but I have also lived in the South. I have seen the shocking inequalities that exist between rich and poor as well as Negro and white. I have lived in Jamaica in the British West Indies, in Rome and in London, and an American away from home finds it extremely difficult to explain a lynching, but and school segregation, with our freedom-loving pronouncements.

The CHAIRMAN. You have seen also the inequality between the rich and poor in the very places you have lived in Jamaica, Rome, and London, and in the West Indies.

Mrs. BLANSHARD. That is quite right.

But the Unitarian Fellowship for Social Justice puts high hopes in the 85th Congress. We believe the climate of public opinion has changed. That there is a greater awareness of the need for civil-rights legislation, that its enactment and enforcement will not split asunder the great bonds that bind us as a Nation. We look to this committee of the Judiciary and to the House of Representatives to enact quickly the best posible civil-rights legislation and to send it to the Senate promptly. If this is done, the 85th Congress will go down in history

as the Congress that started our country back to the full meaning of the Bill of Rights of our Founding Fathers.

The CHAIRMAN. Are there any questions? If not, thank you very much.

The next witness will be Mr. Andrew J. Biemiller, former Member of the House. Mr. Biemiller.

STATEMENT OF ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

Mr. BIEMILLER. Thank you.

The CHAIRMAN. We welcome you back to the fold.

Mr. BIEMILLER. Thank you.

Mr. KEATING. I do not know what he meant by "the fold" but I also welcome you.

Mr. BIEMILLER. For the record, my name is Andrew J. Biemiller. I am director of the legislative department of the AFL–CIO, with offices at 815 16th Street NW, Washington, D. C.

With your permission, Mr. Chairman, I would like to submit a rather lengthy statement for the record, and read a summary to the committee this morning.

The CHAIRMAN. You have that permission.

Mr. BIEMILLER. I should also like to submit a resolution adopted yesterday by the AFL–CIO executive council on the question of civil rights.

The CHAIRMAN. You may have that permission.

(The statement and resolution follow:)

STATEMENT OF ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The American Federation of Labor and Congress of Industrial Organizations takes this opportunity to express its great satisfaction at the speed at which the House Judiciary Committee has proceeded to consider and act upon civil-rights legislation in the 85th Congress. The chairman of the committee, the Honorable Emanuel Celler, of New York, and the other members of the committee are to be commended for this determination to bring to a successful conclusion this very vital piece of unfinished business.

Civil-rights legislation has been unfinished business for altogether too long a time. The House of Representatives, it is true, did pass H. R. 627 in the 84th Congress, and for this it deserved and received the plaudits of the AFL–CIO and all groups and individuals concerned with the protection of our constitutional rights. But even that action, candor compels us to state, was too little and too late. Too little because it constituted only a small part—welcome as that part was—of the total program which the situation calls for; too late because under the circumstances which prevailed and still prevail no civil-rights legislation has any realistic chance of enactment which reaches the other body of Congress during the final weeks or days of a session.

What possible excuse can there be for further failure to enact some meaningful civil-rights legislation? We have just gone through a national political campaign. Both major political parties, the President of the United States, and the vast majority of all those elected to the Congress in 1956 have pledged themselves to work for the enactment of such legislation.

The Democratic platform of 1956 said, in part:

"The Democratic Party is committed to support and advance the individual rights and liberties of all Americans. Our country is founded upon the proposition that all men are created equal. This means that all citizens are equal before the law and should enjoy all political rights. They should have equal opportunities for education, for economic advancement, and for decent living conditions * * *.

"The Democratic Party pledges itself to continue its efforts to eliminate illegal discriminations of all kinds, in relation to (1) full rights to vote; (2) full rights to engage in gainful occupations; (3) full rights to enjoy security of the person; and (4) full rights to education in all publicly supported institutions."

The Republican Party platform of 1956, said, in part:

"We support the enactment of the civil-rights program already presented by the President to the second session of the 84th Congress * * *.

"The Republican Party has unequivocally recognized that the supreme law of the land is embodied in the Constitution, which guarantees to all people the blessing of liberty, due process, and equal protection of the laws. It confers upon all native and naturalized citizens not only citizenship in the State where the individual resides but citizenship of the United States as well. This is an unqualified right, regardless of race, creed or color."

In his state of the Union message earlier this year, the President reaffirmed his campaign pledges by calling upon the Congress once again to enact civil-rights legislation which he had recommended to the 84th Congress. In this message, he stated:

"Steadily we are moving closer to the goal of fair and equal treatment of citizens without regard to race or color. But unhappily much remains to be done.

"Last year the administration recommended to the Congress a four-point program to reinforce civil rights That program included:

"(1) Creation of a bypartisan commission to investigate asserted violations of civil rights and to make recommendations;

"(2) Creation of a Civil Rights Division in the Department of Justice in charge of an Assistant Attorney General;

"(3) Enactment by the Congress of new laws to aid in the enforcement of voting rights; and

"(4) Amendment of the laws so as to permit the Federal Government to seek from the civil courts preventive relief in civil-rights cases.

"I urge that the Congress enact this legislation."

The AFL–CIO expresses the hope that the House of Representatives will proceed expeditiously to adopt at the very least the recommendations outlined in the President's message—recommendations which coincide with the action taken by the House last year in H. R. 627 and now included in H. R. 1151, submitted by Mr. Keating of New York. Certainly the needs in 1957 are no less than they were a year ago. Our hope for expeditious action is justified by the fact that the record in the 84th Congress of the Judiciary Committee hearings, the Rules Committee hearings, and the House debate itself contains enough material and justification for this minimum program. We do not intend to burden the record with information or argumentation which duplicates the detailed material already available to the committee. We wish, however, to make several observations regarding the AFL–CIO's attitude about the general problem of civil rights and the overall program needed to help solve this problem.

The AFL–CIO is fully aware of the fact that no laws can by themselves wipe out prejudice and bigotry. We cannot by law decree fairness and brotherhood and equality. There must be personal readjustment in the hearts and minds of our people before all traces of bigotry are eliminated. But there is much which can and should be done both by voluntary organizations and by government to make that personal adjustment as rapid and as meaningful as possible. Prejudice and bigotry are personal, subjective things. But discrimination, segregation, lawlessness, and inequality are social acts—and these society has a right and a duty to eliminate as rapidly and as thoroughly as possible.

The American labor movement—now united in the AFL–CIO—has taken a clear stand on this great moral question of our times. Before they merged, both the AFL and the CIO and many of their affiliated national and international unions testified frequently before congressional committees on many aspects of the civil-rights problem. Since 1955, when the two great labor organizations merged, we have spoken with a single voice. The resolution on civil rights adopted at the historic merger convention made it clear that the AFL–CIO will work vigorously for the extension of human rights both within its organizations and in society generally. That resolution stated, in part:

"The AFL and the CIO have always believed in the principle and practice of equal rights for all, regardless of race, color, creed or national origin. Each federation has separately played a distinguished role in the continuing struggle to realize for all Americans the democratic rights promised to all by the Constitution of the United States.

"The AFL-CIO is similarly pledged and dedicated to promote and defend the civil rights of all Americans Its constitution declares that one of its objects and principles is—

"'To encourage all workers without regard to race, creed, color or national origin to share in the full benefits of union organization.'

"Another such object and principal of the new federation is—

"'To protect and strengthen our democratic institutions, to secure full recognition and enjoyment of the rights and liberties to which we are justly entitled, and to preserve and perpetuate the cherished traditions of our democracy.'

"Our constitution likewise provides for a 'committee on civil rights' which 'shall be vested with the duty and responsibility to assist the executive council to bring about at the earliest possible date the effective implementation of the principle stated in this constitution of nondiscrimination in accordance with the provisions of this constitution.'

"Thus the AFL-CIO stands dedicated no less than its predecessors to bring about the full and equal rights for all Americans in every field of life"

Through the years, the labor unions have made a contribution toward greater understanding among people. Primarily, this has been done because of the very nature of unionism. As workers of all races and religions found it necessary and advisable to work together in seeking common solutions to common problems in the shop or the mill or the office, they soon acquired respect for one another based upon individual worth Moreover, unions have undertaken specific programs designed to spread understanding.

Labor unions, of course, have not been alone in the effort at spreading understanding Our churches and schools and fraternal organizations have all done their work But the work of these groups and of individuals throughout the country must have the support of government All branches of the government must participate—executive, judiciary, and legislative. The fact is that in recent years the legislative branch has lagged behind the others in contributing to the solution of the problems Although much can be, and has been done by the executive and judicial branches, there remains much which cannot be adequately done without legislative sanction not now explicitly stated

The AFL-CIO, therefore, supports a comprehensive program of civil rights legislation The bill, H R 2145, submitted by the chairman of the committee, Mr Celler, comes closer to meeting the many problems requiring action than does the President's program Every part of the President's program has the endorsement of the AFL-CIO, but it would be wrong and misleading to say that this minimum program is more than just that—a minimum program Certainly anything less than this would be totally and inexcusably inadequate

We wish to comment briefly on the four parts of the "civil rights package" which the House adopted last year by an overwhelming bipartisan vote and which the President now requests be adopted by the 85th Congress.

1. Commission on Civil Rights

It is proposed that there be created in the executive branch of the Government a Commission on Civil Rights whose purpose it shall be to (1) investigate allegations of deprivation of the right to vote and of unwarranted economic pressures by reason of color or race; (2) study developments which deny equal protection of the law; and (3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

We believe that such a Commission could perform a useful function if it were composed of eminent and public-spirited citizens and is adequately financed and adequately staffed No stone must be left unturned in the work required to seek out answers to the many vexing problems with which we shall be faced even after the enactment of some substantive legislation The existence of the Commission, however, must not be used to delay the passage of substantive legislation.

2 Civil Rights Division

It is proposed to create a special Civil Rights Division in the Department of Justice under the supervision of a special Assistant Attorney General.

The AFL-CIO supports this proposal, even though there is nothing in the law now which prevents the President or the Attorney General from employing more assistants or setting up a subdivision within the Department Because the passage of legislation may help establish the importance and stature of such personnel or division, however, the Congress should adopt the proposal.

3. Right to vote

This proposal would give the United States clear authorization to take civil action to redress or prevent unconstitutional deprivation of the right to vote.

This is a vital, substantive proposal. The AFL–CIO strongly supports this recommendation, and believes that any civil-rights legislation which does not contain this provision would be meaningless.

In the final analysis, perhaps the most precious right of all in a democracy is the right to vote. With such a right adequately assured, all other rights are potentially assured. Nothing is more basic to democratic society than the power vested in the people to choose the men and women who will make the laws and operate the Government for the people.

Our Federal Constitution recognizes this basic right to vote in numerous ways. Article I of the Constitution gives Congress the power and duty to pass the laws necessary to protect elections for Federal office. The 15th amendment to the Constitution provides that the right of citizens of the United States to vote in State and local elections shall not be denied or abridged by the United States, or by any State on account of race, color, or previous condition of servitude. The 14th amendment, moreover, prohibits any State from making or enforcing laws which abridge the privileges and immunities of citizens of the United States and from denying them the equal protection of the law.

To carry out these purposes, the Congress years ago passed a voting statute which provides that all citizens shall be entitled and allowed to vote in all elections, State or Federal, without distinction based upon race or color. By this action, the Congress did intend to provide satisfactory protection for the right to vote.

The sad and obvious fact is, that the right to vote has not been adequately protected. Negroes especially have been deprived of the right to vote in many parts of this country. For trying, some have been mercilessly beaten. Obviously, the present voting statutes have not been enough to guarantee this most precious right.

Analysis has shown two defects of the existing statutes:

(1) They do not protect voters in Federal elections from unlawful interference with their voting rights by private persons; it applies only to those who act "under cover of law." Thus, only public officials, not individuals or private organizations, can be effectively prevented from unconstitutional interference in a person's right to vote.

(2) They fail to lodge in the Department of Justice any authority to invoke civil remedies for the enforcement of voting rights. Most importantly, the Attorney General is not presently authorized to apply to the courts for preventive relief in voting cases.

In order that the intent of the Constitution and present statutes can be properly carried out, the Congress should amend section 1971 of title 42, United States Code, to permit (1) action against anyone, whether acting under cover of law or not; (2) civil suits by the Attorney General in right-to-vote cases; and (3) permit first resort to Federal courts where constitutional rights are at stake.

4. Strengthening civil rights statutes

It is proposed here that the Congress should authorize the Attorney General to seek civil remedies in the civil courts for the enforcement of the present civil rights statutes. At prevent, civil suits are possible only by the private persons who are injured by violation of the civil rights guaranties; criminal prosecutions may be instituted by the United States.

The AFL–CIO strongly supports this proposal. Practice has shown that neither civil suits by the aggrieved individual nor criminal suits by the Federal Government have been effective in the enforcement of the present civil-rights statutes.

Injured individuals are often not in a financial position to institute litigation to redress their own rights. Criminal prosecutions suffer from two difficulties: (1) The constitution requires that such action be before a jury drawn from the locality in which the crime was committed. Experience shows that in certain types of cases—not limited to civil rights—the local juries simply will not convict regardless of the evidence (2) Criminal prosecution tends to aggravate the very community tensions which give rise to the civil-rights violation in the first place.

The Attorney General of the United States testified before your committee last year that he requires "authority to institute a civil action for preventive relief whenever any person is engaged or about to engage in acts or practices which would give rise to a cause of action under the present provisions of the

law." He further testified that such authority "would be more effective than the criminal sanctions which are the only remedy now available." The Congress should give him this authority.

OTHER CIVIL RIGHTS NEEDS

We have commented briefly on four proposals which have already been enacted once by the House by an overwhelming bipartisan vote. Again this year, many members from both political parties have sponsored these proposals. Certainly, there can be no reason for expecting that any of these proposals will be considered less necessary by the 85th Congress than they were by the 84th.

As indicated at the beginning of this statement, however, the AFL–CIO considers this a minimum program.

The Celler bill, H. R. 2145, contains all of the above proposals, and in addition, includes the following provisions:

1. Increased punishment for violations of civil-rights statutes where death or maiming results.
2. Clarification of civil-rights statutes to facilitate enforcement of same.
3. Prohibition against discrimination or segregation in interstate transportation.
4. Creation of a joint congressional committee on civil rights with subpena powers.

All of these provisions, in our opinion, would make significant contributions to the protection of civil rights.

In addition to all of the foregoing, the AFL–CIO supports also the following measures:

1. A fair employment practice law assuring to all workers in interstate commerce equal opportunity without regard to race, creed, color, or national origin. (Such legislation is, of course, not within the jurisdiction of the House committee. Bills toward this objective have already been referred to the Education and Labor Committee.)
2. An antilynching statute which will authorize Federal action in all cases of violence precipitated because of race, color, or religion, not only in the case where law enforcement officials are negligent.
3. An anti-poll-tax statute which will invalidate State laws which require the payment of a poll tax as a prerequisite to voting.

THE TIME IS NOW

In the foregoing statement, the AFL–CIO has indicated briefly its attitude toward some of the major proposals which have been offered to make a living reality of our professed freedoms for all of our people—not just those who happen to have the right color or right religion or right national origin. There are other proposals too which would receive the support of the labor movement. The crucial need of the hour, however, is action—meaningful action by Congress which will help create both the proper climate and the proper machinery for the further extension of basic civil rights.

This is truly a historic moment for America. Events of the last few years have confronted Congress with a decision it can no longer afford to postpone. The executive branch for the past 10 years has been making some progress. The courts have spoken. The opponents of progress have, however, shown arrogant defiance. In doing so, they have not only put the issue of civil rights on trial; they have put the very prestige and honor of America itself on trial. The Congress must speak out; it must declare its support of our precious heritage of freedom and equality. It can do so by taking specific action to strengthen the hands of our Government in implementing the Declaration of Independence and the Constitution of the United States.

The challenge to the Congress stands on its own merits. But it cannot be forgotten that our actions in this area of civil rights has great significance beyond our own borders. Not only is it morally right that we should extend our freedoms to all Americans; it is also politically wise. The greatest single contribution we can make to winning lasting loyalty and cooperation from the peoples of Asia and Africa, the crucial areas of the world today, is to practice what we preach.

Our fine preachments about democracy and freedom and equality will have real meaning only as we make these goals truly meaningful for all Americans. Let us finish our job now.

RESOLUTION BY THE AFL–CIO EXECUTIVE COUNCIL, MIAMI BEACH, FLA., FEBRUARY 4, 1957

STATEMENT ON CIVIL RIGHTS

As the champion of freedom, of human rights, and of true democracy in the present-day world, American people and their Government have a special and urgent responsibility to extend equal rights and equal opportunity to all Americans in every field of life.

The AFL–CIO believes it is the first order of business of the 85th Congress to enact civil rights legislation in order to give practical application and the force and effect of statutory law to the basic rights guaranteed to every American by the United States Constitution and the Bill of Rights.

The pronouncements of the United States Supreme Court have left no lawful room for segregation because of race or color of children in our schools or of passengers in public transit. This is the law of the land.

It is now the corresponding responsibility of the legislative and the executive branches of our Federal Government to give this law full effect.

We call upon Congress to enact the following legislation making enforceable and more secure civil rights pledged and proclaimed by the United States Constitution:

1. In order to give full effect to the franchise as the fundamental right of citizenship, we call for a Federal anti-poll-tax law, invalidating State laws which require the payment of a poll tax as a prerequisite to voting.

The 15th amendment, affirming this right and giving specific power to the Congress to enforce it by appropriate legislation, was ratified and put into effect in 1870—87 years ago. Yet Congress has taken no action to override the State poll-tax laws which, though contrary to the Constitution, are still in effect in Alabama, Arkansas, Mississippi, Tennessee, Texas, and Virginia.

2. In order to give adequate Federal protection to the right to vote, there is also need for a law authorizing civil actions by the United States to redress or prevent any unconstitutional deprivation of the right to vote.

3. In order to give effect to the constitutional guaranty that no person shall be deprived of life, liberty or property without due process of law, we call for a law making lynching a Federal crime.

4. We urge that the present civil-rights laws be strengthened by authorizing the Attorney General to bring civil actions to prevent or redress certain acts or practices which violate existing civil-rights acts.

5. We ask that there be established in the Department of Justice a Civil Rights Division and that a position be established of an Assistant Attorney General for Civil Rights in charge of this Division. This provision is necessary to provide adequate review and enforcement machinery to enable the Federal Government to give effective protection to civil rights.

6. We call for the enactment by Congress of a permanent fair employment practices law assuring to all workers in interstate commerce equal employment opportunity without regard to race, creed, color or national origin.

We strongly urge the Senate of the United States to give prompt consideration to the change in its rules to permit a majority of Senator present and voting to limit and close debate.

In addition, we call on the executive branch of the Government to utilize its full powers to overcome and punish any unlawful attempts to block the effectuation of the Supreme Court decisions outlawing segregation in the schools, public conveyances, public recreation, and housing.

We have taken steps to give effect to the objective of the AFL–CIO constitution "to encourage all workers without regard to race, creed, color or national origin to share in the full benefits of union organization."

In our drive for civil rights, we are confident of winning wholehearted and wide support of the entire trade-union movement in America.

Mr. BIEMILLER. Mr. Chairman, this is the first time that the AFL–CIO has appeared before the House Judiciary Committee in the matter of civil-rights legislation. The merger of the two great labor federations took place after the last civil-rights hearings conducted by the committee in 1955. We take this opportunity to commend the committee, and especially its distinguished chairman, Mr. Celler, and

the ranking minority member, Mr. Keating, on the speed at which it has proceeded to consider and act upon civil-rights legislation.

Civil-rights legislation has been unfinished business for too long a time. The House did pass H. R. 627 last year—and for this it deserved and received the plaudits of the AFL–CIO. But even that action, candor compels us to state, was too little and too late. Too little, because it constituted only a small part of the total program which the situation calls for. Too late because under the circumstances which prevailed, and still prevail, no civil-rights legislation has any realistic chance of enactment which reaches the other body of Congress during the final weeks or days of a session.

In the recent political campaign, civil-rights legislation was endorsed by both major political parties, both candidates for the Presidency, and by the overwhelming majority of all candidates for the Congress. In our prepared statement we have included relevant excerpts from the platforms of the two parties and from the President's state of the Union message.

Many proposals have already been submitted to implement these commitments. The AFL–CIO hopes that there may be expeditious action to adopt at the very least the recommendations made by the administration, reflected in the bill submitted by Mr. Keating, H. R. 1151, and supported yesterday by the Attorney General. It is clear that only bipartisan action can assure any civil-rights legislation in the 85th Congress. If such bipartisan support cannot be obtained for more than the President's recommendations, then of course the Congress should adopt these at this time.

Every part of the President's program has the endorsement of the AFL–CIO, but it would be wrong and misleading to say that this minimum program is more than just that—a minimum program. Certainly anything less than this would be totally and inexcusably inadequate

The AFL–CIO, at its founding convention and in its subsequent actions, has supported a much broader program. The bill offered by the chairman of the committee, Mr. Celler, comes much closer to meeting this broader program. We believe that each of the four provisions in the Celler bill which go beyond those of the administration will add substantially to the value of the legislation. The AFL–CIO total program would, in addition to all of these, include an anti-lynching statute and an anti-poll-tax statute. We also believe that a fair-employment-practices law is a basic part of a civil-rights program. This type of legislation, of course, is not within the purview of the Judiciary Committee.

I wish to repeat that although we would prefer a broader program, we do support each of the four provisions included in the administration proposals

1. A Presidential Commission on Civil Rights could help shed more light on the nature of the problem and on the next steps which may be needed. The existence of the Commission, however, must not be used to delay the passage of substantive legislation.

2. An additional Assistant Attorney General and a special Civil Rights Division would help give the necessary standing and prestige to this very vital activity.

3. The right of the United States to proceed in civil actions to guarantee the right to vote is of major importance. It would help protect the most basic of all rights—the right to franchise.

4. Authorization for the Attorney General to seek civil remedies for the enforcement of the present civil-rights statutes would do much to breathe life into such statutes. The present authorization for criminal suits has proved to be insufficient.

This is truly a historic moment for America. Events of the last few years have confronted Congress with a decision it can no longer afford to postpone. The executive branch for the past 10 years has been making some progress. The courts have spoken. The opponents of progress have, however, shown arrogant defiance. In doing so, they have not only put the issue of civil rights on trial; they have put the very prestige and honor of America itself on trial. Congress must speak out. It must declare its support of our precious heritage of freedom and equality. It can do so by taking specific action to strengthen the hands of our Government in implementing the Declaration of Independence and the Constitution of the United States.

The challenge to the Congress stands on its own merits. But it cannot be forgotten that our actions in this area of civil rights has great significance beyond our own borders. Not only is it morally right that we should extend our freedoms to all Americans; it is also politically wise. The greatest single contribution we can make to winning lasting loyalty and cooperation from the peoples of Asia and Africa, the crucial areas of the world today, is to practice what we preach.

Our fine preachments about democracy and freedom and equality will have real meaning only as we make these goals truly meaningful for all Americans. Let us finish our job now.

That concludes our summary, Mr. Chairman.

Mr. KEATING. I would simply like to say that I appreciate the remarks of our former colleague. I think it is helpful to have this great labor organization appear before us and express its views and the position taken by them which is of a statesmanlike character. I hope that they will, among their membership, widely diffuse the views which have been expressed and incorporated in this resolution. It is always helpful to have the backing of such an organization.

Mr. BIEMILLER. Thank you, Mr. Keating. I can assure you that this statement is made on behalf of the united movement of 15 million members, and our statements will get the widest possible publicity that we can give them.

The CHAIRMAN. Thank you very much.

Mr. BIEMILLER. Thank you.

The CHAIRMAN. We will now hear from Mr. Roy Wilkins, executive secretary of the National Association for the Advancement of Colored People.

It is my understanding, Mr. Wilkins, that you speak also for some 40 different organizations; is that correct?

STATEMENT OF ROY WILKINS, EXECUTIVE SECRETARY, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. WILKINS. Twenty two, Mr. Chairman, to be accurate.

The CHAIRMAN. I want to take this opportunity, also, Mr. Wilkins, to thank you and the representatives of the 22 organizations that you represent for their permitting you to act as spokesman, so that the time of the committee would not be taken up with 22 recitals.

Mr. KEATING. I hope that may serve as a precedent for future witnesses who appear before us.

Mr. WILKINS. Mr. Chairman, my name is Roy Wilkins and I am the executive secretary of the National Association for the Advancement of Colored People.

We have some representatives of those organizations here, and if it would not infringe too much on the time of the committee I would like to have them stand just to be noted.

The CHAIRMAN. That is perfectly agreeable.

Mr. WILKINS. The American Civil Liberties Union; American Council on Human Rights; American Ethical Union, National Committee on Public Affairs; American Jewish Congress; Americans for Democratic Action; American Veterans Committee; Friends' Committee on National Legislation; Improved Benevolent and Protective Order of Elks of the World; International Union of Electrical, Radio and Machine Workers, AFL-CIO; Japanese-American Citizens League; Jewish Labor Committee; Jewish War Veterans of the U. S. A.; National Alliance of Postal Employees; National Association for the Advancement of Colored People; National Community Relations Advisory Council; National Council of Negro Women; Unitarian Fellowship for Social Justice; United Automobile Workers of America, AFL-CIO; United Hebrew Trades; United Steelworkers of America; Women's International League for Peace and Freedom; Workers Defense League; Workmens Circle.

Mr. SIFTON (UAW). We are not yielding our opportunity to file statements. We wish to file a statement during the course of the hearing.

Mr. WILKINS. As Mr. Sifton has indicated, although I speak on behalf of these organizations, many of them wish to file a statement with the committee in addition to this.

The CHAIRMAN. Very well.

Mr. WILKINS. Ten years ago a committee of distinguished citizens from all walks of life, appointed for the purpose by the President of the United States, made a searching study of the state of civil rights in this country and issued a report entitled "To Secure These Rights." Few government reports have been so widely publicized and so warmly acclaimed. During the intervening decade a number of the recommendations contained in that report have been carried out.

For example, largely by Executive action, segregation has been eliminated from the armed services; discriminatory treatment has been outlawed in the Federal establishment; and a special watchdog committee oversees the no-discrimination provisions of Government contracts. Racial segregation and discrimination are no longer lawful in the Nation's Capital.

In a number of States and municipalities, laws and ordinances have been enacted outlawing discrimination in employment, in housing, in public accommodations and in the National Guard; special commissions have been set up to promote fair and equal treatment and to facilitate adjustments.

But although the committee recommended some thirty-odd measures for congressional action, and although the report asserted that the time for such action was "now" (1946), not a single one of these recommendations has ever been brought to a vote in both Houses of the

Congress. The story of these past 10 years in civil rights was a repetition of what it had been for a much longer period before. The fact is that there has been no Federal legislation for civil rights in over 80 years.

The organizations which I represent have endorsed the recommendations of the President's Committee on Civil Rights. It is our conviction that all of those recommendations represent real needs and that all of them are long overdue. But we recognize that, however much we might want it, every one of these needs cannot be satisfied at one time. Our immediate and overriding interest, therefore, is in making a start, in taking a first step toward breaking the congressional stalemate through the enactment of a minimum meaningful bill.

Last year this committee reviewed some fifty-odd bills dealing with the subject, and after hearings and careful analysis, and with strong bipartisan backing reported out H. R. 627.

It was the distinguished chairman of this committee, and the distinguished ranking minority member from the State of New York who guided that bill through the House.

This bill included provisions strengthening the capacity of the Justice Department and the courts to protect American citizens whose personal security and right to vote have been jeopardized by reason of racial or national origin or religious affiliation. It also provided for a special Civil Rights Division in the Department of Justice and for the establishment of a bipartisan commission to investigate violations of civil rights.

I think it is pertinent here to call attention here to what might be called the strongest section of the bill, one which addresses itself to the great problem of protecting the right to vote. That is, to give the Attorney General the right to seek civil remedies for the enforcement of present civil rights statutes and to protect the right to vote of those citizens threatened and denied.

This was a limited bill, that is, 627. It took no account of the problem of discrimination in employment; it made no reference to segregation in interstate transportation; it did not deal with the poll tax or with violence directed against members of the armed services or with several other pressing issues. Nevertheless, it was a meaningful bill because it would have constituted a step forward in the safeguarding of the two most basic rights—the right to vote and the right to security of the person.

For example, the right to vote has been flagrantly and systematically denied colored citizens in many parts of the South. I offer the committee a sample of the kind of ballot used in last spring's Alabama elections. You will note that the ballot carries a rooster and a declaration of white supremacy. It is fantastic that at the polling booths of America there can be such open flaunting of theories of racial superiority.

Mr. KEATING. You say you have that ballot?

Mr. WILKINS. We have a sample here for the inspection of the committee, sir.

The CHAIRMAN. We would have difficulty in putting it in the record. It has a picture, and the Government Printing Office would find it difficult to reproduce.

Mr. WILKINS. You might find it difficult to reproduce the rooster, but the slogan on white supremacy can be produced in type.

Mr. KEATING. What is that slogan?

Mr. WILKINS. We are trying to find a copy here. We submitted it to this committee in the testimony at the last hearing; we had some extra copies around. I will furnish it to you, Mr. Chairman. It is a designation at the head of the ballot, with a rooster, and saying, "The Party of White Supremacy."

Mr. KEATING. Which party is that?

Mr. WILKINS. Mr. Keating, this is the State of Alabama which I refer to.

Mr. KEATING. I will not press it.

Mr. HOLTZMAN. I do not think it would be a very telling point anyway.

Mr. KEATING. No. It is news to me. I never heard of this before. I am sorry I did not catch that in your testimony at the last session.

Mr. WILKINS. I will be very happy to furnish the members of this committee with a facsimile of this ballot. I am informed, sir, that the ballot is on file in the Senate hearings, as well.

Moreover, the opposition to voting by colored people in Alabama is not merely symbolic. Macon County, for example, is the seat of Tuskegee Institute, a world famous institution of higher learning. In Macon County, colored citizens have had a long, hard struggle to obtain the right to vote. The latest effort to keep many of them from casting a ballot has been most effective.

I could not help but think during the testimony of the second previous witness of this instance. State officials have simply refused to appoint a full board of registrars in Macon County. At least two members are necessary for the board to function, and at present there is only one. As long as there is only one member of the board of registrars, the State and local officials can turn their heads and say that colored people cannot vote because we do not have a full board of registrars, wholly ignoring the fact that they themselves have neglected to carry out their duty to appoint of a board of registrars. They have failed to do this as an effective device for keeping the Negroes in Macon County from registering.

The stories of this voting business are legion and could go on all day and all night. The way they carry the books from office to home. You go to the office to register, and they say the registrar has taken the book home. If you go to his home, if you dare, a colored man to go out into a white residential neighborhood in a small town in Alabama, and say "I want to register," they say you are mistaken, the books are down at the office. This goes ring-around-the-rosy over and over again, and there are many devices.

The methods by which Negro Alabamians are discouraged from registering are illustrated by the type of questions put to them by registrars. "How many persons are on the United States Government payroll" was one question, and "What was the 19th State admitted to the Union" was another question asked of Negro applicants.

In Louisiana the white citizens councils have conducted a campaign to purge as many colored voters from the books as possible. In Monroe, La., representatives of the councils have actually invaded the office of the registrar of voting for the purpose of purging colored

voters. The Assistant Attorney General in charge of the criminal division of the Department of Justice testified in October 1956 that over 3,000 voters had been illegally removed from the rolls of Ouachita Parish, in which Monroe is located.

Not only administrative devices but economic reprisal and outright violence have been used to prevent colored people from voting. A dramatic illustration of how the program of fear works comes from Humphreys County in Mississippi. Prior to May 1955, there were approximately 400 colored voters in this county. By May 7, 1955, the number of colored voters had been reduced to 92. On that day the Rev. George W. Lee, a leader in the effort to increase the number of Negroes registering and voting, was fatally shot in Belzoni, Miss. Within a few weeks, there was ony one colored person eligible to vote in Belzoni, Miss. He was Gus Courts, who once ran a grocery store in the community. On November 25, 1955, he was shot and seriously wounded while in his store, and has since left the State.

Statewide, the records show that some 22,000 of Mississippi's 497,000 Negro eligibles were registered to vote in 1954. By primary day, 1955, the number of Negroes registered had been forced down to around 8,000.

Mind you, Mr. Chairman, the eligibles numbered nearly half a million in that State, and only 8,000 were discoverable as registered voters in August 1955.

As I have indicated, we have been willing in the interest of making a beginning and of breaking the legislative stalemate, to support a bill that has limitations, though without relinquishing our principles. We are willing, that is, to accept much less at this time than we believe to be justified, I must emphasize precisely what this means. It means that we are willing to accept a minimum bill but that it must be a meaningful bill.

The test is not to be met by any bill with a civil rights label, but only by one that deals effectively with the two basic problems I have just outlined. The Department of Justice has repeatedly testified that existing statutes are inadequate to furnish protection against denials of these rights. Accordingly, any legislation which would only provide for a civil rights division in the Justice Department, and for an investigating commission on civil rights, and does not at the same time correct the inadequacies which render such agencies impotent under existing law, would be civil rights legislation in name only.

We favor a civil rights division in the Department of Justice, and we favor a commission on civil rights, as they were incorporated in H. R. 627 last year. But we regard the creation of such agencies as supplements to, not substitutes for, meaningful civil rights legislation.

The House of Representatives has on several occasions passed civil rights bills. For example, bills dealing with the poll tax, with lynching and with fair employment practices. Last year it passed H. R. 627 by a 2 to 1 bipartisan majority. Our major problem lies in the Senate where the rules operate to prevent an expression of majority will. The time element is, therefore, essential to any hope for passage of civil rights legislation. Unfortunately, the House action last year occurred so late in the session as to play into the hands of the filibusters in the Senate.

The organizations for whom I speak have in the past ordinarily testified in their own names. Many others who have so testified have this time sent in written statements. We have done this not because we feel any less strongly than before but in order to do everything we can to expedite the work of this committee, to accelerate the completion of the hearings and to bring about an early report and favorable House action at the earliest possible moment.

Thank you, Mr. Chairman.

Mr. ROGERS. Mr. Wilkins, as I understand, you are advocating the minimum that you are willing to accept, but you do not feel that goes far enough in this field of legislation. Is that your position?

Mr. WILKINS. We feel, Congressman Rogers, that the provisions embodied in H. R. 1251 and H. R. 627, particularly as it was passed with such bipartisan support, constitute the minimum civil rights bill that should be passed by the Congress. We have attempted to indicate our belief in all the other points that have been recommended in other types of legislation as still desirable. But the points in H. R. 527 and to a degree in 1151 constitute the bedrock minimum that ought to be passed.

Mr. ROGERS. Do you feel that is a step in the right direction? In other words, to meet the problem may need additional legislation, like the poll tax and other things.

Mr. WILKINS. Yes, indeed. I mentioned the poll tax as desirable, that is, the elimination of the poll tax. Also the Federal fair employment practice law which does not come before this committee. We feel very strongly that the protection of the right to vote and the guarantee of the security of the person are two basic rights. As a matter of fact, the protection of the right to vote, if extended on all levels, might easily lessen the task of the Congress in enacting civil rights legislation, because it might tend to take care of many of these problems on the local and State level where the voters can make themselves felt.

For example, sir, the 497,000 Negro people of voting age in Mississippi have no voice in the State government. They have no voice in the choice of their Congressmen.

Mr. ROGERS. Is that due to the fact that they are not permitted to register or does the State say they cannot?

Mr. WILKINS. It is due to the fact that they are not permitted to register through—what shall I say—the interpretations of local authority and local law and local law-enforcement officers about which we heard a great deal here a few moments ago. This is an old story and a long story. I do not want to take the committee's time with it, but the incidents can be piled up by the thousands.

Mr. ROGERS. Do you see any great conflict between State authority and Federal authority if the United States attorney had the right to enforce State law as to registering and the right to vote?

Mr. WILKINS. Congressman Rogers, I do not see any great conflict there beyond the surface objections that will be raised because of the political necessity of such objections, let us say. I do not believe there would be any basic conflict. I think the enjoyment of the right to vote will benefit all of the States which now in one way or another deny that right. Eventually they will see the point. The Southern States that have not enforced such onerous provisions, such as Texas and North Carolina, now respond to the Negro electorate to a degree.

They have had no great conflicts. I do not anticipate conflicts elsewhere.

Mr. ROGERS. Would you anticipate a great deal of litigation that we heard a witness testify about here this morning?

Mr. WILKINS. I think in the light of the present situation in the South, the arousal of emotions on other matters, that there would probably be some litigation. As a matter of fact, there would be litigation if there were no emotions because the institution of new methods or the enforcement of new legislation invites challenge and there would be some litigation.

Mr. ROGERS. Is it the inviting of that challenge that has led to the litigation or would this legislation, if adopted, increase the amount of litigation?

Mr. WILKINS. I do not think it would increase it. I do not think so.

Mr. ROGERS. There has been a lot of litigation in those areas, has there not?

Mr. WILKINS. Not so much on the right to vote. I am speaking now of the provisions of this bill. Are you referring to litigation with respect to the Supreme Courts' opinion on public schools.

Mr. ROGERS. Let us confine it to the right to vote. Do you have any ideas why there has not been litigation in that regard when these people have been denied their right to vote?

Mr. WILKINS. Part of it, Congressman Rogers, is due to the fact that under the present laws it is not possible to do anything until after you have been deprived, and after the election has passed.

Mr. ROGERS. In other words, if they attempt to enforce the State law as it exists, the election is over before you get any action.

Mr. WILKINS. Yes. Then there is also the difficulty of getting local law-enforcement officials to entertain and prosecute litigation of this sort. They are inclined to regard it as on a par with other crimes. This is all of a piece, and does not involve any Federal question. So we either enforce it or not, as you would a boy who holds up the corner grocery store. You might decide not to proceed against him for one reason or another. I feel that has held down some litigation. I cannot imagine, for example, your having any success in Macon County, Ala., in going into a State or country court and complaining that you had been denied the right to register and vote. I recall a distinguished Senator from the South, whose name I will not mention, telling a nationwide audience that there was no discrimination against Negro voters in his State. All who could qualify under the State law, he said, could vote. This is the bland manner by which violations of Federal guaranties are dismissed, and everybody knows it to be a fiction. The Negroes know it is a fiction. The law-enforcement authorities know it is a fiction. The Congressman from the States know it is a ficion. They pretend. They say our State law provides so-and-so, and he did not qualify, and that is all there to it.

The CHAIRMAN. Has your association participated in the use or attempted use of the judicial process to effectuate those rights, as you have in the school case?

Mr. WILKINS. In some few cases, sir. We were more active some years ago in this field than we are now. In 1944 our attorneys were helpful to plaintiffs in a case which arose in the State of Texas, involving the white primary, which it was stated that the primary was

limited to white persons only. We were instrumental in that. We have been active in some cases having to do with registration.

The CHAIRMAN. How far did you go in that Texas case? Did you go all the way to the Supreme Court?

Mr. WILKINS. We went to the Supreme Court three times. We went first in 1927. We went again in 1932. We went again in 1944. Each time we chipped off a little bit of it. The first time the State of Texas, when the law was declared unconstitutional, the legislature of Texas delegated the powers to the State Democratic committee. We had to take that all the way up to the Supreme Court and get a ruling on the delegation of powers, heretofore held to be unconstitutional. But it was not until 1944 after the third trip, and some $100,000 in expenditures over that period of time, that the white primary was finally declared unconstitutional.

We had our first litigation on this in 1915 when the grandfather clause was challenged by our lawyers in the Supreme Court. I do not recall the old law exactly, but it did not refer to race or color in order to get around the Constitution. It simply said those persons are eligible to vote whose grandfathers were eligible to vote prior to 1860. This fight for the vote has gone on a long time, Mr. Chairman.

Mr. KEATING. Mr. Wilkins, to get this in proper context, let me point out that the provisions of H. R. 1151 are identical in every respect with the provisions of H. R. 627 as they were reported out of this committee last year. Some amendments were tacked onto that bill on the floor, some of which I personally disagreed with, and you probably would. But that is what you speak of as the minimum meaningful legislation; is that not right?

Mr. WILKINS. That is true, sir.

Mr. KEATING. While you might go further, you support that legislation as being minimum meaningful legislation.

Mr. WILKINS. We do.

Mr. KEATING. You do support the other bill that I offered.

Mr. WILKINS. H. R. 627.

Mr. FOLEY. H. R. 2145 in this Congress.

Mr. WILKINS. Yes, in this Congress.

The CHAIRMAN. Is your answer "Yes"?

Mr. KEATING. He said "yes." Bill H. R. 1151 has no criminal provisions in it. We heard a witness this morning from North Carolina by the name of Mr. Scheidt who said if he was here to speak on a bill without any criminal provisions, he would not bother to come up. So I assume we have pretty general agreement in the country on H R. 1151. Would you think that is a fair conclusion?

Mr. WILKINS. Mr Keating, and Mr. Chairman, I think my testimony speaks for itself. We are for these provisions as minimum requirements I am sure with the experience and skill of the gentlemen who are on this committee, and who are interested in this legislation, that the resolutions which will have to be made of various points as this legislation proceeds through the committee and to a vote will be made in such a way as to preserve—and that is what we are interested in—these essentials Whether it comes out completely H R. 1151 or completely H. R. 2145, or an amalgamation or a clean substitution or one or the other the points we are interested in are that these essentials be preserved in the legislation that is passed. If more is added

to it, and it can be passed, well and good. We are only concerned that nothing shall be taken from the basic minimum.

The CHAIRMAN. We have two of our members present, and unless there are any other questions, we will proceed with them.

Mr. ROGERS. I have just one question. You made reference to your organization making these tests in the State of Texas. Were you challenged by the Attorney General as to the right of your organization to maintain those suits in the last couple of years?

Mr. WILKINS. In Texas?

Mr. ROGERS. Yes.

Mr. WILKINS. These were brought in the Federal courts.

Mr. ROGERS. Yes: but was your right as an organization challenged to exist in the State of Texas, because it was a litigating group?

Mr. WILKINS. We have been challenged, Congressman Rogers. As a matter of fact, we are now barred from operating in the State of Texas.

Mr. ROGERS. That is what I was going to ask you.

Mr. WILKINS. On the ground that we have violated certain corporation laws of the State of Texas. That we have failed to pay a franchise tax. That we have engaged in political activity forbidden to corporations. You would think we were General Motors or something. And that we have stirred up litigation. In the voting cases we did not stir up litigation. The plaintiffs who were denied the right to vote came and asked our assistance. The best proof is that for 12 years, from 1932 to 1944, we did not handle a case because some Texans themselves took a case up to the Supreme Court on voting without our assistance or advice, and lost, because they lacked the ingredient that was necessary and had not developed until the classic case that came up from New Orleans that counsel is familiar with.

Mr. MITCHELL. Mr. Chairman, if I may, to identify myself for the record, my name is Clarence Mitchell, director of the Washington bureau of the NAACP. I have the Alabama ballot that Mr. Wilkins referred to in his testimony, and I will be happy to submit it.

The CHAIRMAN. Thank you.

I wish to thank you, Mr. Wilkins, and all of the organizations, the 22 organizations that have been mentioned. We are grateful to you and all of them.

Mr. WILKINS. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Hugh Scott, of Pennsylvania, a former member of the full committee, and a Member of the House.

STATEMENT OF HON. HUGH SCOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. SCOTT. Mr. Chairman and gentlemen of the committee, it is a great pleasure and a real homecoming for me to have a chance to appear before what I regard as the most distinguished committee in the House, and made even more distinguished by the accession of its new members in this session.

Mr. KEATING. But less distinguished by the loss of one of our members in the last session.

Mr. SCOTT. Modesty, of course, would forbid any comment on my part in that regard, other than the usual and suitable disclaimer.

I will be brief. I know that there are many witnesses, Mr. Chairman, and that the committee would like to dispose of this matter as speedily as may be possible. Therefore, I will confine myself to saying that in the last session of Congress I was glad not only to support H. R. 627, as amended, but along with the chairman and the ranking minority member, I had introduced an identical bill for the purpose of securing the same result, and indicating my mutual interest in this legislation.

This year, on the 3d of January, I introduced a civil rights bill, somewhat more extensive than H. R. 627, as representing more of the material which I would like to see embodied in civil rights legislation. That is contained in H. R. 1254. Without going into detail, I would say that it contains in addition to the provisions of the Attorney General's recommendations the further provision of prohibition against discrimination or segregation in interstate transportation, and certain provisions for the protection of right to political participation, certain further supplements to the existing civil-rights statutes and provisions for creation of a Joint Congressional Committee on Civil Rights.

On the 16th of January I introduced a bill which contains the same provisions recommended by the Attorney General, H. R. 3088. All of those measures have been testified to by the Attorney General and will be testified to by others. They comprise the provisions which are well known to the committee. The establishment of a Commission on Civil Rights, the provision for the duties of the Commission, the powers of the Commission, provision for an additional Assistant Attorney General, and the same provisions to strengthen the civil-rights statutes which were passed by the House last year, subject to certain amendments that were made on the floor of the House, and provisions to provide means of further securing and protecting the right to vote.

I think, Mr. Chairman, that this bill is a substantive and substantial and meaningful bill. It recognizes, as I think we must all recognize, that not all of the civil-rights legislation which any one member would wish to see could be enacted into law by the two Houses of the Congress. I think it is most important that this House act promptly and as early in this session as possible. I hope that they will report, as a minimum, the equivalent of last sessions' H. R. 627, and I hope it may go to the other body, or that the other body may act independently promptly enough so that we will not be impeded by legislative restrictions or by the existence of any rules in this or the other body which could be used to the detriment of the passage of this fair and needed legislation.

I think time is of the essence. I think it is essential that the Congress of the United States go on record as requiring participation by the Federal Government in the protection of the right of the person to be free from undue and unwarranted pressures, to be entirely free in the exercise of his franchise. I think if that is done, as Mr. Wilkins has testified, many matters which presently harass the Federal Government's legislators and impede the operation of the Federal Government's judicial system could be taken care of locally by the local and State administrations and by the State courts.

I believe that the power of franchise, itself, if freely and fully exercised, will ultimately take care of a great many of these things. I

would cite the State of Louisiana, for example, where the opportunity of all citizens to vote more freely is pretty general now, and as a result of that, there is far less tendency in that State to ignore the right of any individual that there is in some other State where the franchise is restricted.

I would like to thank the committee for giving me the opportunity to testify.

The CHAIRMAN. Are there any questions? If not, it is always very agreeable to have you here, Mr. Scott. Any time you want to come back, we have a welcome mat outside the door.

Mr. SCOTT. I would like the committee to know that I miss the committee very much.

The CHAIRMAN. Thank you. Our next witness is our distinguished colleague from Michigan, Mr. Louis Rabaut.

STATEMENT OF HON. LOUIS C. RABAUT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. RABAUT. Mr. Chairman, members of the committee, I have a statement here on this civil-rights legislation.

First I would like to thank you for this opportunity to appear before your distinguished group in support of civil-rights legislation now under consideration.

I am not going to approach the problem from a purely legalistic standpoint, but prefer to stress the humanistic side of social and legal equality. Here in America we have developed through the years the most delicately balanced governmental structure the world has ever known. This system was once described as one which the finest of men could not make absolutely perfect, but the most evil of men could not make completely bad. While this analysis is probably quite true and we cannot make our system perfect, we can devote every effort to correcting flaws as we meet them. We have countless facets of the American way of life for which we can be justly proud, but we are far from perfect. Often we confuse freedom with license and individualism with abuse. Some elements of our society seek continually to stratify and isolate particular groups of their fellow Americans—deprive them of job opportunities and proper housing. This is patently ridiculous when we realize that America is one of the very few spots on the globe where a man born to modest means can rise to whatever heights his abilities will carry him. The downtrodden of the world have always looked to America as a land where they and their children might shake the stigma of second-class citizenship. The words on the Statue of Liberty, composed by Emma Lazarus, express this thought much more poignantly than I ever could:

> Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore.
> Send these, the homeless, tempest tossed to me, I lift my lamp beside the golden door.

Are we to make a mockery of this message of hope? Are we to sit idly by while our citizens, native and foreign born, are denied their rights guaranteed under the Constitution? We will all, sooner or later, pass by the Supreme Court Building and, if we are observant, note the wording etched above the Georgian columns, "Equal justice under Law."

Like the lofty principles set forth on the Statue of Liberty, these are but empty words if we as individuals and as a nation merely pay lip service to the institutions for which our ancestors dedicated their lives, fortunes, and sacred honor. Do all of our citizens have equal justice under law? Hardly. Discrimination is with us in many forms—job opportunities, housing, freedom of movement, and this, I might add, is often with the tacit approval of segments of our judiciary.

This might sound like a harsh statement, but discrimination could not possibly exist if the judiciary was living up to the oath of office. We have time and again witnessed courts condoning or ignoring violence perpetrated against Negroes and other minorities.

Gentlemen, a new Federal law, vigorously enforced, is needed to bring a halt to racial violence and usurpation of basic rights. Such studied attempts at disenfranchisement as the poll tax must be exposed for what they are—economic discrimination. Safeguards with teeth must be provided to prevent anyone from threatening, intimidating or coercing another in his or her right to vote.

A Civil Rights Division headed by an Assistant Attorney General must be created to enforce civil-rights legislation. Also, in this connection, the Attorney General must be empowered to obtain injunctive relief on the spot when abuses are brought to his attention.

To further implement the drive for social justice, I am in agreement with those who seek a special joint congressional "watchdog" committee to provide surveillance over the entire field, and to recommend streamlining or change when necessary.

A law such as that proposed before this committee would not violate the sovereignty of individual States, nor attempt to meddle in their local police matters. It has always been the prerogative of the Federal Government to investigate and prosecute violations of basic civil rights. On many occasions, however, the efforts of Federal officials to obtain justice for aggrieved parties has been hampered by a lack of concerted effort which can emanate only from a special Civil Rights Division in the Department of Justice.

In this connection, a number of States have disenfranchised a large segment of their populations through such ruses as "examinations" wherein the applicant is required to answer technical questions of law or recite the Bill of Rights. Such questions by the examiner are optional, and, needless to say, are not required of those considered to be politically reliable. A farce such as this would come under most careful scrutiny should Federal civil-rights legislation become a reality.

I could belabor the obvious and itemize many more abuses by local authorities bent on maintaining power through coercion, but I realize that your committee has many witnesses to hear and time is of the essence. As I said previously, my desire is to approach the problem, not from a cold legalistic angle wherein precedent from a dead era is so often quoted, but, rather, to appeal to my colleagues from the Christian viewpoint of "Do unto others as you would have them do unto you."

Thank you.

The CHAIRMAN. I will place in the record two statements, one from Representative Poff from Virginia, and one from Representative Pelly from Washington.

(The statements follow:)

STATEMENT OF HON. RICHARD H. POFF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. Chairman, those who read the daily newspapers need not be reminded of the chaos and confusion which has resulted from the Supreme Court school integration decree. Personal turmoil and civil strife, the like of which this country has not known since the days of the War Between the States, have been loosed upon the people of both races in every geographic area of the Nation. Even at this moment when calmer heads are seeking to soothe the passions and subdue the violence at both extremes, the legislation before this committee threatens to throw into the midst of this ominous unrest a catalytic irritant which would infester an already painful wound. Certainly this is no time for punitive, disciplinary sanctions; rather, this is a time for patient, tolerant forebearance. For this reason, and not by reason of bias or bigotry, do I oppose this legislation.

However, shorn of all consideration of civil tranquility and entirely aside from the merits or demerits of the Supreme Court school decree, this legislation is unworthy. Departing from the long established juridical principle that the 14th amendment applies to actions by the several States or to officers of the States acting in pursuance of State laws, this bill would project the Department of Justice and the FBI into cases involving the actions of private citizens Moreover, it would authorize the Attorney General to proceed against such a private citizen with or without the request of the aggrieved individual. Such a concept is entirely alien to the principles of American jurisprudence.

In addition to this defect and the many other defects which appear on the face of the bill, there is one major fault in the heart of this legislation to which I would like to address myself I respectfully direct your attention to that language of the bill which reads as follows:

"The districts courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

It has long been a rule of case law that a litigant has no standing in the Federal court until he has first pursued and exhausted all administrative remedies available to him. This rule was applied and the plaintiff's complaint was dismissed by the United States Court of Appeals, Fifth Circuit, in the cases of *Cooke et al.* v. *Davis* (178 E–2d 595); *Bates et al.* v. *Batte et al.* (187 F 2d 142); *Peay et al.* v. *Cox, Registrar* (190 F. 2d 132); *Mills et al.* v. *Woods et al.* (190 F. 2d 201); and *Davis et al.* v. *Arn et al.* (199 F. 2d 424).

This rule of law is grounded in the principle of the sovereignty of the individual States. It recognizes that the individual States have the jurisdiction and the responsibility to administer the internal laws passed by their legislatures. In administering these laws, the States necessarily have the authority to create administrative agencies which are empowered by the legislature to issue and enforce administrative regulations These regulations establish the administrative procedure which must be followed by the individual citizen who feels that his legal rights have been abridged or denied.

These administrative agencies and these administrative rules and regulations reach into every field of jurisdiction with which the State and its localities are vested, including health, sanitation, police protection, and education.

The Supreme Court in its public school decree instructed the States to proceed with all deliberate speed. Several Southern States have proceeded and others are proceeding, with all deliberate speed, to develop specific and detailed plans. Some of these plans contain school enrollment regulations which are not based on race, creed, or color. These plans also contain a system of administrative appeals culminating in an appeal as a matter of right to the State courts. That appeal procedure is available to the parents of every pupil who feels himself aggrieved by the action of the local school authorities.

The language of the bill quoted above would completely and utterly nullify the administrative appeal procedure these plans provide. Thus, these plans, developed at the express mandate of the Supreme Court, could never receive a court test to determine whether or not they comply with the Court's decree.

If this language should be deleated from the bill, it would not mean that an aggrieved party would not have access to the Federal courts. It would only mean that he must first pursue and exhaust all administrative remedies available to him. If this language remains in the bill, Federal court dockets, already heavily overburdened, will be swamped with frivolous and vexatious cases which otherwise could have been settled out of court by administrative action.

I have on my desk a newspaper cartoon showing black smoke issuing from a window in the first story of a building. The window is labeled "The South" and the smoke is labeled "Encroachments on States' authority." Looking from a second story window at the smoke below are two men labeled "Other States." The title of the cartoon is "Just Another Sectional Problem" ' Members from other States may consider the problem before us today entirely sectional and confined to the South But Federal encroachment on States' authority is not sectional in its ultimate effect. The fire downstairs, if not quenched, will finally consume the upstairs too. Indeed, the flames already are leaping up the staircase.

I am grateful for the opportunity of making this statement before the committee, and I earnestly trust that I have made some constructive contribution to your deliberations.

TESTIMONY OF HON. THOMAS M. PELLY, A REPRESENTATIVE FROM THE STATE OF WASHINGTON

Mr. Chairman and members of the Committee on the Judiciary, your kind permission to express support of a civil rights bill is greatly appreciated. Of the various bills before the committee, H. R. 2145, introduced by the distinguished chairman, Mr. Celler, would be the ideal measure, but in the interest of reporting out a bill which from a practical standpoint will pass, I urge and support one with the so-called four point program sponsored by the administration. My bill, H R. 374, and H. R. 1151 introduced by our colleague from New York, Mr. Keating, I believe are among those in this category which seek to protect the civil rights of persons within the jurisdiction of the United States.

The testimony and hearings on H R. 627 in the 84th Congress, 2d session, and the action of the Committee on the Judiciary in Report No. 2187 which accompanied H. R 627 when it passed the House of Representatives 279 to 126 last year all speak for themselves and make a full detailed statement at this time superfluous Therefore I will be brief, and only address myself to the issue as to whether or not your committee should include additional matter in the bill it reports this year.

Some of us who have had a special interest in promoting the passage of civil rights legislation feel consideration should be given by the subcommittee as to the advisability of including two additional matters: (1) Anti-poll-tax legislation, and (2) Protection of our Armed Forces personnel from threats of violence. However, I favor separate measures for these problems in order not to endanger unduly the passage of a bill Also, above all situations needing correction it seems most important to protect the basic right to vote. That right, as covered under H. R 374 and H. R. 1151 and bills containing a minimum program will offer, I hope indirectly also, a remedy through the ballot box eventually to curb other evils on the local level In other words, full suffrage may slowly correct many things in certain localities that we might desire to cure on the Federal level. So I do not urge reporting an all-inclusive omnibus civil rights bill at this time

I do strongly favor these four provisions:

(1) Establishment of a Commission on Civil Rights to investigate allegations that any citizens are deprived of the right to vote.

(2) Establishment of a special Civil Rights Division of the Department of Justice, headed by an Assistant Attorney General, to enforce the law.

(3) Authorizing the Attorney General to bring civil actions in Federal courts on behalf of persons whose civil rights are violated.

(4) Authorizing the Attorney General to initiate civil actions against private citizens as well as State officials who interfere with a person's right to vote.

In conclusion, Mr Chairman, I join with many of my colleagues, with representatives of minority group organizations, with public-spirited and patriotic associations, and with the vast majority of our thinking American citizens in strongly urging your committee to report out favorably and promptly a bill with the above minimum provisions A revision of the law in this respect should ease racial tensions and advertise to the free world that we are a republic with full protection and guaranty of freedom under the law for all citizens regardless of race, color, or religious conviction.

And finally, I thank the members of the subcommittee for their courtesy.

The CHAIRMAN. We will now adjourn until 2 o'clock this afternoon.

(Thereupon, at 11:45 a. m., a recess was taken until 2 p. m. the same day.)

CIVIL RIGHTS

WEDNESDAY, FEBRUARY 6, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to recess, at 10 a. m., in room 346, House Office Building, Hon. Emanuel Celler, chairman, presiding.

Present: Representatives Celler (presiding), Rodino, Rogers, Holtzman, McCulloch, and Miller.

Also present: William R. Foley, general counsel.

The CHAIRMAN. The committee will come to order.

Congressman Vanik of Ohio, we will be glad to hear you.

STATEMENT OF HON. CHARLES A. VANIK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. VANIK. Mr. Chairman and members of the committee, I wish to take this opportunity to place myself squarely in support of the civil rights bill proposed by your distinguished chairman, the Honorable Emanuel Celler. Although it only partially fulfills the need, it represents a practical approach and constructive step forward in establishing better human relations in America. The very minimum that Congress can do at this time is provide for a bipartisan Civil Rights Commission, increase the authority of the Attorney General in civil rights matters, protect the voting rights of all citizens and eliminate discrimination in interstate travel. Without Federal legislation, uniform standards of human decency would not prevail in America.

This legislation represents the considered judgment of some of the best minds in this Congress—and I refer to the good minds in both political parties. In either form, the Celler bill or the Keating bill, this legislation should be reported out by your committee. H. R. 1151 is a minimum bill. H. R. 2145 is better. I have introduced H. R. 3793, a companion bill to H. R. 2145.

The Civil Rights Commission will fill a vital need in the administration of the civil rights laws. With power to investigate, study and collect information concerning economic, social, and legal developments which constitute a denial of equal protection of the laws, it can make a tremendous contribution to the national welfare.

The duties and authorities of the Attorney General to redress or prevent deviations from the civil rights code should be carefully detailed and spelled out as they are in H. R. 2145 rather than left discretionary. Administrative officers all too frequently interpret blank

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discretionary directives as orders not to act. The law must be clearly drafted with clearcut mandates which fortify and guide a courageous administration unclouded by speculation. It must be drafted beyond the administrative promise of the official currently charged with carrying out the directives of Congress.

The representatives of the Southern States should be able to find their way to accept this legislation. It represents a delicate approach to a problem of wide magnitude. Compromise has been already prefabricated into the legislation. It is much less than enough to assure the existence of substantive freedom in America, freedom for all people.

Vast areas of civil rights in America are untouched and remain the work of a future Congress. This legislation is in the nature of a moderate step forward. Eighty-eight years have passed since the adoption of the 14th amendment and all progress in the development of civil and human rights in America since that time has been made too slowly for our American concept of justice and equality. And yet the very moderate, temperate recommendations of this legislation appear to be the full distance that this Congress can go in achieving an honorable regard for civil and human rights. Few citizens can believe that the legislation is sufficient and yet we support it because it appears to be the best we can do at this time.

The problem of integrating American life is not a local problem. To the South, it means the breakdown of separate social systems developed over the generations. The universal dignity which will develop in the mainstream of southern life will increase productivity, develop a deeper sense of social responsibility, and preserve and protect the greatest asset with which the South is blessed, its peoples of all races, colors, and creeds. The South cannot afford the unabated loss of its citizens by movement to areas of the Nation more disposed to their social progress.

The North has an abundance of prejudice problems which will probably provide more labor than the South for the Civil Rights Commission. Prejudice can be seen to take effect at the city limits. Few areas in the new dominions of northern suburbia are feasibly and practicably available to all Americans. The migration of city dwellers into the new confused outposts of suburbia are frequently motivated by a desire for a segregated community and segregated schools. Friendly warm communities are not friendly and warm to everybody. Community clubs are designed for segregation by "clubby" covenants which blaspheme that dignified word. Their ostensible purpose is to preserve community life. Their practical purpose is to discriminate and segregate. Banks and lending institutions have had their part in isolating these communities from tolerance by a segregation loan policy.

The problems of the North are in many respects more difficult than those of the South. The difference is that North tries where the South is inclined to despair. We of the North plead with our fellow citizens from the South to reconcile to a fuller meaning of liberty—a meaning which America needs throughout the world.

Mr. Chairman, I want to thank you for this time that you have accorded me before your committee.

The CHAIRMAN. Thank you very much.

Mr. ROGERS. I take it from your statement that your bill H. R. 3793 is a companion bill of the chairman's, H. R. 2145?

Mr. VANIK. That is correct, Mr. Rogers.

Mr. ROGERS. You feel that is a better approach to it than the minimum bill of H. R. 1151?

Mr. VANIK. That is correct.

Mr. ROGERS. That is fostered by the administration. Thank you.

Mr. VANIK. I feel you have to outline or detail the authority and the directive to the Attorney General. Otherwise, the discretionary things are too frequently left undone.

Mr. ROGERS. You feel that part of H. R. 1151 which just sets up the Assistant Attorney General and directs him to enforce civil rights under the Constitution and Federal law is too limited in its nature.

Mr. VANIK. That is correct.

Mr. ROGERS. And that we should spell out more precisely what the civil rights are as provided in your bill and the chairman's bill.

Mr. VANIK. That is correct, sir.

The CHAIRMAN. Thank you very much.

Mr. VANIK. Thank you.

The CHAIRMAN. We have the distinguished chairman of the Committee on Government Operations, Hon. William L. Dawson, Representative from the State of Illinois.

STATEMENT OF HON. WILLIAM L. DAWSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. DAWSON. Mr. Chairman and members of the committee, I want to say how deeply I appreciate this opportunity to appear before you in support of certain bills that have been filed by me and filed by others. One of the bills filed by me is the exact bill that was passed by the Congress at the last session. You can appreciate, gentlemen, why I would file that bill, because it had already had committee consideration and had already been passed by the Congress.

In studying the bills that have been filed before this committee, I find that the bill filed by Mr. Keating involves all of the bill passed by the last Congress except that portion which had to do with setting out the procedure in the Commission. I am of the opinion that the absence from the bill of those procedures is an improvement on the bill, because I think that in the bill passed by the last Congress the procedures were out in such detail that it might have hampered the Commission in its work in carrying out the purposes of the bill.

I also find after studying the various bills filed that the bill filed by our distinguished chairman of this committee embraces not only the provisions of the Keating bill, and the bill that was passed by the last Congress, but also embraces two of the other subject matters contained in separate bills that I filed. One is H. R. 1100, which protects the rights of political participation and includes some amendments to section 594 of title 18 of the Code. That is incorporated in your bill, Mr. Chairman.

Also, another bill filed by me to take care of another situation, the one supplementing existing civil rights, which also calls for certain changes in existing law and gives the Attorney General certain powers is incorporated in your bill.

So I appear before you not in pride of authorship, but I appear before you interested in the subject matter of these bills, because I am sure that if there ever was a time that vexing problems ought to be solved, that time is now. These bills, if passed, will go far to putting on the statute books those provisions which will make it possible to impress upon those who will disobey the existing law, because it has not been set out in detail, to bring upon them an appreciation of what this problem is all about.

The CHAIRMAN. H. R. 2145 prescribes in detail concerning discrimination and segregation in interstate transportation.

Mr. DAWSON. Yes. You included that also, Mr. Chairman. I did not introduce a bill in that subject matter, because I thought there was improvement along that line. But I was glad to see that it was included in yours. I am rather speaking for the subject matter of the bills than speaking on the particular bills that I myself introduced, since I find them incorporated in your bill so ably.

The CHAIRMAN. There has been great improvement in the matter of interstate transportation, has there not?

Mr. DAWSON. There has been great improvement in the matter of interstate transportation. There has been great improvement in another respect that gave us some concern a few years ago. For instance, I introduced a bill on peonage. There was a time in this country when peonage was one of the great questions in the Southland, where people were held for debt and sought to work it out and never worked it out. There was a peonage system that certainly needed the attention of the American people, but that condition has rapidly been cured.

There is another question on antilynching. At one time there was not a session of Congress that there were not certain antilynching bills presented. But they have become fewer and fewer during the past few years because of the change in conditions, and the thinking of men. Though I introduced one at this time for the purpose of having it on the books, if the occasion would be necessary, yet I certainly am proud of the fact that it is becoming rarer and rarer in our country today. But the provisions of the Keating bill, the provisions of the Chairman's bill, which are so broad, certainly if enacted into law will give to the Attorney General those powers which are not now given to him by direct legislation and those directions which will enable him to take a stand in these matters in a way that he has not been authorized by law to do heretofore.

The CHAIRMAN. I want to state at this juncture that you have been most vigilant and very painstaking and energetic in your attempts to effectuate these beneficial changes. We cannot compliment you too highly in that regard.

Mr. MCCULLOCH. Mr. Chairman, I would like to also say that I think our colleague's statement has served a very useful purpose to repeat what should be repeated more often: The improvement that has been going on in recent years in these fields where we have had unfavorable publicity in various parts of the world.

Mr. DAWSON. I thank you, sir. I do appreciate that anything involving the changing of the thinking of people is a matter that is accelerated at times and at times it goes slowly according to incidents that arise. But I am hopeful that in the very near future—not a distant future—there will be remaining in this country no vestige of that

discrimination against people which has gone out of the days of slavery. I am of the opinion that this country should as soon as possible lay aside and for the good of our standing among the nations of the world and take every step to see that the Constitution is a living, real thing, to every American citizen.

I thank you for your courtesy, gentlemen.

Mr. HOLTZMAN. I have no questions, but I am delighted to see my former chairman here, and I regret I missed part of the statement. It is good to see you, Mr. Dawson.

Mr. DAWSON. Thank you, sir.

The CHAIRMAN. Our next witness is Mr. Cretella, Representative from Connecticut. We are very glad to hear from you.

STATEMENT OF HON. ALBERT W. CRETELLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. CRETELLA. First of all, I wish to express my appreciation for the opportunity to appear to testify on this legislation. I have introduced H. R. 3481, which is almost akin to the Keating bill. I heard my colleague, Mr. Dawson, testify here before, and I also subscribe to whatever thoughts he may have given to this committee which are brought out by the chairman's own recommendation in his bill.

It has been generally agreed that the progress made by the present administration in the general field of civil rights has excelled that of previous administrations in the last 20 years. The proposal for the integration of our Armed Forces has been tremendously successful. An end has been put to discrimination in our Government departments and agencies when based on reasons of color, creed, race, and religion.

The CHAIRMAN. Has the integration in our Armed Forces been completed through all echelons?

Mr. CRETELLA. I am familiar with our colleague, Mr. Powell's statements in that regard. From what I have been able to gather on my own, it has been brought to an end. Perhaps there have been some spots where it has not been done. That is not because of any executive or administrative action but perhaps because of the continued animosity of some of the people who have the right and are under the law to put that to an end. I think it is a personal individual involved rather than the law or the administrative or Executive orders.

The CHAIRMAN. You believe, in general, aside from those specific cases which are infractions of the regulations, that integration has been fairly general throughout the services?

Mr. CRETELLA. I believe so. I think the best example of that was the inaugural parade. If you saw those military units go by, there was a great deal of integration in all of those units that we saw. I trust the same feeling exists in all the other military units.

The CHAIRMAN. You cannot judge from an inaugural parade.

Mr. CRETELLA. I just used that as a sample. It was there, evident and apparent.

The CHAIRMAN. That is just a parade. I am very glad to hear your statement that there has been integration in general in our Armed Forces. That takes in the Navy, Army, Air Force, Coast Guard, and Marine Corps.

Mr. CRETELLA. That is correct.

Discrimination has been stopped, or attempted to be stopped, in private enterprises having contracts with the Government and in Federal housing. In short, where and when the Government is directly concerned it has gone forward in great strides to erase any and all degree of racial hate and discrimination in the United States.

Indeed the complexities of integration as related to the sovereignty of the States are many, and, needless to say, there are many States which are employing their powers of sovereignty solely as a means to obstruct the fulfillments of the order of the United States Supreme Court to integrate our public schools. We have learned that, in the efforts to resolve this problem and carry out the true meaning of the Court decision, extremism on either side of the argument is not the sensible approach. The decision, nevertheless, is the law of the land, and it must be abided by, by all the States, not just by those so inclined. I am assured that the Eisenhower administration will do everything possible to bring about peaceable integration in our public schools, for that is the only method by which all citizens can attain equality of opportunity in education, to which they certainly are entitled.

The denial of inherent rights of United States citizens has taken place in other areas outside our schools, Armed Forces, and government. It is the denial of such a basic right as voting that this legislation which I propose will correct.

Let us look to the tenets and principles upon which this Republic was founded. The cornerstone of the greatness of America is equality under law. Our Constitution, as written, provides for the freedom of equality of all our citizens, in the right to vote, hold public office, speak, and worship. Privilege, when based on color, race, or birth should always be abhorrent to the American standards of democracy, and it is these impurities in our system which make a mockery and hypocritical gesture of our ideals in the eyes of other nations of the world, whether they be free or not.

And speaking of other nations of the world, it has become especially incumbent upon us to exercise our concepts of justice, freedom, and tolerance. Whatever injustice may arise within our boundaries, no matter how minor, it is now greatly magnified and distorted by Russia and the other Russian controlled countries who are trying to propagandize the rest of the world into recognizing the benefits of communism. American prestige in the cold war is seriously damaged by the Russian-inspired tactics in their struggle for world position.

Only a certain amount of the propaganda can be disclaimed through the dissemination of truthful information to nations overseas. The rest must be disclaimed through action on the part of our Government through adequate legislation, and through action on the part of the people within our Government in abiding by the provisions of those laws which are designed to protect individual civil rights.

Laws are but one means for the establishment of standards which do justice to the principles of democracy, morality, and decency. They have been proven to be an effective instrument toward this objective. This existence of uniform Federal law in the enforcement of civil liberties is essential. The difference of opinion between Connecticut and Mississippi is, of course, not in itself a basis for Federal

law, but when certain inalienable rights as given by the Constitution are abridged, no matter how prevalent or confined the denial is, we must have some common adequate regulatory power. And that power belongs to the Federal Government, in fulfillment of its obligation to defend and uphold the rights granted under the Constitution.

Part I of H. R. 3481 provides for the establishment of a bipartisan Commission on Civil Rights, composed of six members. My legislation is slightly different from other proposals in that it authorizes the Chairman of the Commission, with the assent of a majority of its members, to appoint United States Department of Justice employees for the organization of Civil Rights Commission regional offices in the United States for the purpose of assisting the Commission. I think the machinery for the setting up of these regional offices is essential for the effective operation and objective of the Commission. It will facilitate and expedite the claims filed by individuals against others who allegedly did or attempted to abridge the civil rights of any person or group of persons. My bill leaves to the discretion of the Commission the location of these offices. This title also sets up the rules and procedures of the Commission. The duties of the Commission are to investigate written allegations that citizens of the United States are being deprived of their right to vote, or subjected to unwarranted economic pressures by reason of their sex, race, religion, or national origin.

The Commission will study and collect information about economic, social and legal developments constituting a denial of equal protection of the laws under the Constitution; it will appraise the laws and policies of the Federal Government respecting equal protection of the laws under the Constitution; it shall be required to submit interim reports to the President and to file a final report on its findings and recommendations not later than 2 years after the enactment of the statute. The Commission may require the cooperation of any Federal department in the carrying out of its objectives and it has the power of subpena, enforceable by the courts.

Part II establishes the office of Assistant Attorney General in the Department of Justice for the purpose of assisting the Attorney General in the performance of his duties relating to the protection of civil rights.

Part III would strengthen the civil rights statutes now in effect and give the Attorney General the right to initiate civil action.

Part IV of this bill secures and protects the basic right of every United States citizen to vote. This is one of the most flagrant infringements upon the rights of certain citizens and the strongest possible legislation should be enacted for the prevention of such denials. My bill makes provision that no person shall intimidate, threaten, coerce or attempt such action for the purpose of interfering with the right of such other person to vote for any candidate for the office of President, Vice President, presidential electors, Senate, House of Representatives, delegates or commissioners at any primary, general or special election.

Here the Attorney General is given the right to institute the necessary civil action, the proceedings of which shall be under the jurisdiction of the Federal district courts.

Congress must recognize that such infringements upon the American principle of freedom, justice and equality endanger our form of government and are destructive to our basic doctrine of individual dignity and integrity. It is this recognition of the individual as a creature of God which sets us apart from the doctrine of totalitarian dictatorships.

It is essential that the gap between principle and practice be filled through law and adequate safeguards be enacted to preserve our American heritage and to protect those things given us under the Constitution and our moral, economic, social and political existence.

I have every confidence that this committee, under the able guidance of Chairman Celler, will report effective civil rights legislation to the House and that such a proposal will be passed by a sizable margin.

If such action does come to pass, I think it will be incumbent upon all of us in this body who want such a law for the protection of all United States citizens to enlist all possible assistance from our colleagues in the Senate toward the objective of effecting final passage. We should all try to avoid the shelving of good civil rights legislation which occurred in the 84th Congress, after House passage.

I might say, Mr. Chairman, that my thinking is incorporated in the legislation that we passed last year. I voted for it and supported it. I think the time certainly has come—I happen to be a lawyer by profession as are the members of the committee—when the law is on the books, whether you like it or not, whether it is the prohibition law or integration law, it is the law of the land and it has to be abided by. As my statement says, I do not think one State should take it upon itself to say that "We are dissatisfied with this law, and we are not going to enforce it." We enforce other laws on the books whether we like them or not.

The CHAIRMAN. You also believe that there is a 14th amendment covering the subject, but it needs implementation specifically by the Congress.

Mr. CRETELLA. That is right. In other words, up to the present time you can go into a court and enforce a violation after the offense has been committed, but that does not do any good.

The CHAIRMAN. Are there any other questions? If not, thank you very much.

Mr. CRETELLA. Thank you.

The CHAIRMAN. Our next witness is Representative John D. Dingell of Michigan, the youngest Member of the House, but nonetheless a very vigorous and highly intelligent Member. We are glad to have you with us this morning.

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. I would like to thank the chairman and the members of the committee for their gracious courtesy and for the opportunity to appear this morning to testify on this very important subject.

As you know, Mr. Chairman, I am the author of several bills on the subject here. The first is a rather large omnibus bill, H. R. 140; H. R. 141, which is a bill to outlaw the poll tax; H. R. 142 which establishes

a civil-rights division in the Department of Justice, and H. R. 143, which is a Federal antilynching bill, and H. R. 144, which is a compulsory Federal fair employment commission bill.

I will say again, Mr. Chairman, as I go along that I do intend, and request permission of the Chair and the committee to file a more lengthy statement as I give this résumé here this morning. I would like to comment briefly and say that I feel that H. R. 140, which is the omnibus bill, would be to my thinking the most desirable form of bill for enactment. I prefer that bill to most of the others I have seen although I would not urge that specific bill upon the committee from pride of authorship only. I have studied the two bills which are before the committee this morning, H. R. 1151, by my friend from New York, Mr. Keating, and H. R. 2145, which is authored by the distinguished chairman of this committee. It is my feeling that H. R. 2145 is a superior bill, because it goes considerably further than the rather minimum approach of the Keating bill. I would support the Keating bill as I did during the last session of Congress, or a bill very substantially identical to it, the reason being that it is good not only in principle but in action, although it does not go as far as I would prefer to see the whole approach go.

To comment briefly on several features of the bill, it is my feeling that an injunction provision is not a sufficiently forceful method of bringing about compliance with the Constitution of the United States. I feel that the Civil Rights Commission, as embodied in the Keating bill, is again helpful, but it is not compelling. Its real function is only to serve as a sounding board, and as an organ for exposition of the basic problem. In fairness I think the people of this country are fairly well familiar with the nature of the problem.

The Civil Rights Division provision in H. R. 1151 is helpful, too, in that it gives the Department of Justice a division and the manpower which will be necessary to do the things which are necessary. With that provision, we can look for a more vigorous action from the Department of Justice. I do like the provisions of the Celler bill, specifically page 10 or thereabouts, where the existing civil rights sections of the code would be amended to outlaw other violations of civil rights which we meet in the course of everyday life, not only in the southern part of the country, but actually in the northern part of the country.

I think that with that, Mr. Chairman, I will conclude my testimony, and thank the committee for a very gracious and courteous opportunity to appear here and make my views known.

I ask permission to submit a more complete statement for the record.

The CHAIRMAN. You have that permission.

(The statement follows:)

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman and members of the committee, my name is John D. Dingell. I am a Member of Congress from the 15th District of Michigan.

I am grateful to the members of this committee for this opportunity to present my views on measures which are before them which would initiate Federal action in support of civil rights for all the people of our country.

I am aware, as are members of this committee, that these measures again present to the Congress an opportunity to assume responsibility in a matter of utmost concern to the country and, in fact, the world.

This is an opportunity which we have had before on many occasions. Except for H R. 627 which passed the last session, we have not accepted our responsibility in a manner which the Nation and the world have expected us to do. Even in the passage of H. R. 627, we avoided coming to grips with the most important aspects of civil-rights issues; and the measure, as finally passed, was very unsatisfactory. We can no longer shirk our duty in these matters; nor can we compromise that duty by delay and circumvention.

Were I to dwell too long on the reasons which I believe warrant immediate action by this committee on civil-rights legislation, I would, perhaps, repeat statements made to the committee by many others who have appeared here. Permit me to say, however, that tied up in these measures are the desires of millions of Americans who are hoping that in their lifetime, they may witness our great Nation free from the effects of prejudice and discrimination.

These Americans include many groups. Some have experienced great improvement in the conditions under which they have suffered. Yet, all would welcome, and do expect from us, assurances that there shall be clearly defined steps by the Federal Government which will strengthen protection of civil liberties and constitutional rights.

A century has not passed since Irish-Americans were among the principal targets of bigotry. While it may appear that, because we no longer find newspaper advertising warning "no Irish need apply," such bias has been ended. This is far from true.

I need not recount for the committee the strong feeling against Americans of German descent during and after both of the world wars. We cannot boast of the end of such feeling today, even though Nazi guns have been stilled for 12 years and the crematories and execution chambers of Adolf Hitler are, to most of us, museum pieces in faraway lands.

Prejudice against Polish-Americans and Italian-Americans, as well as others of foreign parentage and immigrants from nations of the world, is concealed neither by subterfuge nor by subtlety. Treatment of these groups and that of Catholics, Jews, and Negroes is a source of great embarrassment to our country in its leadership of the so-called free world. Prejudice so expressed is a cancerous affliction from which our country will suffer more than the effects of a hydrogen or atom bomb. Our enemies in the Kremlin and in the Communist outposts around the world feed this cancer with the help and collaboration in this country of those whose exterior garbs scent of American Beauty roses and include an overabundance of affidavits attesting to their devotion to the flag and/or to our Heavenly Father.

There are those who insist that the legislation which has been proposed is intended to inflict on one section of the country, the will of other sections of the country, in matters which are the sole responsibility of local and State authorities. I would point out that not one paragraph of any of these measures restricts the application of any to specific geographical locations. The evils which the legislation seeks to correct are not found in any one section of the country. They are found everywhere in the United States.

I am convinced that those who urge that civil-rights legislation will be the bane of one section and a boon to another are determined to create a division among our people I believe that their motive is to render our people, by such division, so confused that they may strengthen, by inaction, the hand of a minority which would continue to exercise the authority of government in several States.

Several bills introduced by me dealing with specific steps which can be taken and should be taken to strengthen Federal protection of civil rights have been referred to the committee I wish, also, to give my unqualified support to H R 2145, introduced by Mr. Celler H R. 1151, the Keating bill is also satisfactory, but does not go far enough. I understand that the latter presents the administration's views on civil rights.

Most of the action provided for in the Keating measure can be accomplished without legislation, because it now lies within the power of the President of the United States However, since no such action is contemplated by the White House without this legislation and the President asked for this measure, I favor its adoption. I might add that the Keating proposals are included in the bills I have introduced. A Commission on Civil Rights, the addition of another Assistant Attorney General and a revision of existing civil-rights laws are covered by the Keating bill. It is my suggestion that the enforcement of the laws would further be bolstered by directing that an increase be made in the FBI personnel available for investigation of civil-rights complaints.

In supporting these aspects of the proposed legislation I am aware of being in disagreement with those who say that, if the Federal Government increases its activities in the protection of civil rights, a threat is posed to the powers which are jealously exercised by States. This is the argument of that breed of Americans who call themselves States righters.

State righters present to the people of this country a spectacle not unlike that of American Communists. They would preserve our constitutional government, by destroying it. They have asserted in resounding voices, their devotion to democratic processes, but would suppress and render impotent the very processes they would employ as safeguards to their own liberty. They have frustrated the will of the majority of the Congress on the grounds that they are entitled to a protection as a minority which they deny to others. They seek to conceal the way in which they twist concepts to their own devices by this verbal shield of States rights and, thereby, to convince the uninformed that the passage of such legislation infringes on the authority they can, but do not, assert. This deceit is no longer invisible, for when the Supreme Court set forth the limitations on their authority under the Constitution, they attacked the Supreme Court, thereby revealing their contempt for the Constitution.

In each of the matters touched by the Celler bill, the States remain free to act. Following are the effects of the bills I have introduced:

H. R. 141 outlaws the poll tax. States may do so irrespective of this bill and if so, the law would become unnecessary.

There can be no question but that the tax should be abolished. The cost of suffrage in our great country has been paid many times by millions of our people who have shed their blood or given their lives and energies, in war and in peace, to keep our land free from aggressors and harmless before the onslaughts of nature, economic disaster, and civil strife. A monetary price cannot be set which would defray such a cost; nor should one be asked. The fact is, the poll tax is a device intended to discourage voting. It has no useful purpose. Those States which continue to collect it fail to abolish it; we have a duty to act to end it.

H. R. 142 sets up the Division in the Justice Department to which I referred in discussing the Celler bill.

H. R. 143 outlaws lynching. Federal action is necessary, because by definition lynching presupposes a breakdown of law enforcement by local authorities. It does not matter whether such a breakdown is intentional or the resullt of the inability of authorities to cope with a situation which arises. When a person is deprived of his life or is denied due process of law as a result of a breakdown of authority, the Federal Government has a duty to protect him and punish those responsible. The contrary would be repugnant to the guaranties set forth in the Constitution. We cannot continue to leave this job to the courts. If we do not provide this protection, a void exists into which any citizens of the country may fall. Such inaction gives license to abuse and even execution by local citizenry, without the benefit of law.

The fact that Negroes are the principal target of lynchings is not an insignificant fact. It is, however, immaterial to the question of whether a Federal law is proper and necessary. All persons are subject to the danger inherent in the disregard of the civil rights of any man by those who feel secure that they are not the object of racial, religious, or nationality bias. Mobs who bomb Negro homes in Montgomery, Ala., or in Clinton, Tenn. show a contempt for law and order. To surrender to such groups the control of police power, by inaction, gives promise of a conflict from which none shall emerge a victor.

H. R. 144 outlaws discrimination in employment. The need for Federal action in matters affecting employment is a settled fact in the history of the law of our country. The question of whether such action conflicts with State authority is moot. Child-labor laws, minimum-wage laws, and the regulation of employers and employees in the matter of unions are accepted today, without question.

Employment, to most Americans, means an opportunity to realize that which seems to underscore the hopes and ambitions of most of us, the pursuit of happiness. Whatever we try to accomplish in pursuit of happiness, we are desirous of doing by our own efforts. When we experience a denial of such efforts because of our color, race, creed or nationality, we lose a little of our faith in our heritage.

I am aware that the usual reply to FEPC legislation is that employers are private individuals who may employ whom they wish. Need I say that this matter can be disposed of in the face of such arguments as they were in the matter of child-labor laws. The country has as vital an interest in the effects

of a worker's inability to find work, because of racial or other identity, as it has in the effects of hard labor on a child. Workers have families which must eat. Furthermore where workers are skilled, the country loses valuable energy and skill at a time when we are in a race with influences in other parts of the world which make it imperative that we utilize every ounce of energy and all the skills of all of our people.

The greatness of our country stems from the combined energies of our people, and of the generations who have gone before us. The Lord has given us these human resources along with vast amounts of material resources. As we exert great effort to gain the greatest amount of good from our material resources, we must also strive to fully utilize our human resources. In the military we are now well advanced in the total utilization of the energies of our young men and women. After the program was initiated by former President Truman it was advanced against the counsel of many of our military and naval leaders. As a general, President Eisenhower doubted the wisdom of this policy. Now he has come to realize that it was a sound policy and has asserted his support.

Private industry also has come to appreciate this policy, and many companies are taking steps to implement it in their endeavors; again, legislation is not enough to take the initiative away from those who assume it. It is only where these persons fail or decline to act, that we have a responsibility to do so. We can no more hesitate now than we could in dealing with the military. The state of the world and of the country demands that we act now. Those of us who allow our personal prejudices to cloud the issue, those who listen to race baiters and professional bigots, place personal prejudice above our country. We can turn our backs, with temporary immunity, on those we hate, in their pursuit of happiness, but we cannot ignore the challenge the world is pressing upon us.

Discrimination is not always action by government. There can be and there often is discrimination by the inaction of government.

Where a person is prevented from voting by unlawful acts of persons who are hostile to those of his racial or other identity, a State which idly stands by and either ignores or disregards such acts, aids and abets such persons. In many instances States are prompt in their law enforcement where elections are concerned. For example, vote fraud brings immediate action The reason is that we all realize the danger to our elective process of fraud at the polls or in the vote tabulation We also recognize the importance of protecting the right of our citizens to freely exercise their privilege of voting and that fraud robs them of this freedom by thwarting them in their choice.

The same arguments prevail when a person is intimidated and disenfranchised by coercion because of his racial or other identity. Even as the Federal Government has a duty to provide legislation to cover election frauds, it has a duty to act against the intimidation of voters. This duty is separate and distinct from that of the States. The Federal Government has an additional duty to safeguard and preserve the right of the citizens in one State to participate on an equal basis with those of other States, by assuring that in no State will a minority, through force and intimidation acquire for themselves a control of the votes of that State by preventing the realization of voting rights by any of its citizens.

A democratic government which discriminates or permits discrimination against citizens of a minority group in the enjoyment of basic rights, by such action, ceases to be a democracy.

H. R 140 also touches on the matters of preventing discrimination in higher education. The views presented by the Chief Justice, Mr. Warren, on the effects of segregated educational facilities apply to all institutions of learning, private and public, parochial and nonsectarian. It has been by the use of segregated schools that prejudice and bigotry have been fostered. It is no secret that our country has become disturbed by the inadequacy of educational facilities. Yet, though Congress has been asked to spend millions of dollars to provide additional facilities, there are those who place more importance on keeping the schools segregated. I favor Federal aid to help bring our children better schools. However, I believe we have a duty to our people to make such that a minority of small-minded persons are not adding to the cost we must assume, because they wish to maintain at all costs the extremely expensive systems of segregated schools. It is my belief that we are entitled to assurance that these sums will not find their way into private institutions which aid and abet the fostering of prejudice and bigotry by reason of tax exemptions. I believe the principle set forth in the series of Supreme Court decisions should govern us here. The Government must insure that it does not discriminate against any of its citizens

because of their race, creed, or national origin. It must not do so by its own acts or by assisting others to so act.

In conclusion, I wish to urge this committee to act with dispatch in passing these measures. I sense a growing impatience among our people. I believe this impatience would be stilled by a direct appeal from the White House. I have come to realize that it is not forthcoming. It remains the duty of the Congress to still the troubled waters, and the waters are sorely troubled. Our people expect us to act; we must not fail them.

The CHAIRMAN. Thank you very much.

The next witness will be Adam Clayton Powell, Representative from New York.

STATEMENT OF HON. ADAM CLAYTON POWELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. POWELL. My name is Adam Clayton Powell of the 16th Congressional District of New York.

First I would like to take this opportunity of thanking the chairman, Mr. Celler, for promptly bringing this matter before this committee and the House in the opening days of our Congress.

I would like to say one thing in passing with reference to the Armed Forces. There was a question asked of my colleague, Mr. Cretella, with regard to segregation in the Armed Forces and he referred to me. I would like to say that there is in the Armed Forces still some segregation. At a recent conference last week with representatives of the Pentagon, an agreement was reached to abolish all references to race in the civil-service forms now being used by the Pentagon. An agreement also was reached to abolish all designations of race by the Army in its daily reports and in its call for volunteers. Those are two matters which had been in practice until a few days ago in the Armed Forces.

Mr. ROGERS. When was the first order of desegregation in the Armed Forces issued?

Mr. POWELL. It was issued by Mr. Truman.

Mr. ROGERS. Was it in 1948?

Mr. POWELL. No, I think it was 1947.

Mr. ROGERS. Since then down to the last few days they have not adhered to it?

Mr. POWELL. There were still vestiges of segregation in the Armed Forces, yes, sir, in defiance of Executive orders of both Mr. Truman and Mr. Eisenhower.

Incidentally, I would say that the right to vote is the most precious thing that any American has. As long as we in any way keep masses of people from voting, it puts us in the same category in that matter with Soviet Russia. Behind the Iron Curtain they do not have free elections and behind our dark curtain we do not have free elections. It is my fundamental belief, however, as I move through the South that there is increasing honesty on the part of white southerners in facing these problems. We in the North must face the fact that there is a danger of increasing hypocrisy in the North. This bill before us, even though I am sponsor of one of the bills, should be supported by all of us. Pride of authorship has nothing to do with this matter. Therefore, I place myself unreservedly behind the Celler bill in this matter.

I would like to say that people worry concerning the vast numbers of Negroes in certain sections of our country. One month from today there will be a new nation born in our world, the nation of Ghanna on the West Coast of Africa, where the white population is only 10 percent. Yet that nation is being born with the unanimous consent of the British Government. They are not fearing the vote of 90 percent blacks and a 10 percent white population. We here in America should have at least the same attitude as our British allies.

I do believe, however, that certain amendments should take place, if not in committee, then on the floor. I think the poll tax should be abolished. I think there should be some type of antilynching provision.

The CHAIRMAN. Of course, you know we have other bills which cover that very same subject.

Mr. POWELL. Yes, I do.

The CHAIRMAN. I think it might be advisable in my opinion to keep them separate so that we might in the interest of expedition get a bill through. I hope the gentleman will have that in mind.

Mr. POWELL. I yield to the chairman's greater wisdom on this matter. I would like to see some form of antilynching provision—either the one which you authored in the last session concerning men in the Armed Forces, or one that applied to all American citizens.

The CHAIRMAN. When you mentioned the armed services, do you include the Coast Guard?

Mr. POWELL. The Coast Guard as well as the Navy, Air Force, and Army.

Mr. ROGERS. Do I understand by your statement that the Keating bill, H. R. 1151, does not go far enough to meet the problem?

Mr. POWELL. I am talking just concerning the Celler bill before us, the right-to-vote bill.

Mr. ROGERS. They claim that in the Keating bill, H. R. 1151, the latter part of it gives certain rights relating to the election of the President, Vice President, and Members of Congress. That gives the jurisdiction to the United States Government to go into the district court and institute a suit in the name of the Government and of the real party of interest if they so want it to restrain election officials who may prevent people from voting, who under the Constitution have a right to vote. That is in the so-called Keating bill.

You feel that the Keating bill does not go as far as it should, that it should embrace all of those provisions in the Celler bill because the Celler bill is broader and covers more of those factors? Is that your thought?

Mr. POWELL. That is correct. I am also thinking of the practical problem of the number who have been killed in recent years because they dared to register and dared to vote. What would be the recourse to a Federal court if it was a Federal election? I am thinking of the bombings that are taking place, and have taken place recently, which by terror are trying to keep the people from exercising their suffrage.

I am wondering if there should not be some provision where the Federal Government has the power in a Federal election to bring to the court of justice men who have taken the lives of others or through violence have attempted to keep American citizens from exercising their suffrage.

Mr. McCULLOCH. Mr. Chairman, I would like to ask the witness a question right there. Since we have at least touched upon the difference between the Keating bill and the bill authored by the chairman, if it should occur to you that it would be a practical impossibility to have the bill the chairman had written favorably considered by both branches of the Congress, would you, rather than have nothing, have the Keating bill?

Mr. POWELL. Yes, absolutely, rather than nothing.

Mr. McCULLOCH. It does make a real approach in certain fields, does it not, and gives a new civil remedy which heretofore has not been in existence at the national level?

Mr. POWELL. Absolutely. My hope is that by 1963, which will be the centennial of the Emancipation Proclamation, that within 100 years America will have been able to get the bandwagon of democracy on the road in all its fullness. Anything that we can do to start that I accept. I do place myself in favor of the Celler bill as compared to the Keating bill, hoping that the best features of all bills could come out of committee.

Mr. McCULLOCH. I asked that question particularly, Mr. Chairman, because Mr. Keating has been prevented from attending the meeting at this time.

Mr. POWELL. I would like to point out how the prevention of the right to vote of Negro people works against all people. There is no way of quarantining segregation. There is no way of confining it. It starts out with one group, whether it is Jew, Protestant, Catholic, or Negro, and it ends up by spreading its venom to all peoples. Here is a county in Alabama, Macon County. Macon County has been without a board of registrars since January 16, 1956; for 1 year no board of registrars. This means that in Macon County not even white people can vote, because there is no board of registrars. It has been stated on March 22 by the Governor that he was unable to get anyone to serve—anyone, however, meaning white persons. Since that time signed statements from Henry F. Faucett, Charles M. Keever, and Bernard Cohn have been submitted that they were willing to serve as registrars of Macon County, Ala., if appointed.

All these men are white. Macon County has a population of 27,500 Negroes and less than 5,000 white people. There are approximately 3,000 whites on the voters' lists and 1,000 Negroes. But rather than let those 1,000 Negroes vote, all people in that county have been without the right to vote since January 16, 1956.

There are a couple of things I would like to bring to the committee. The phrase "unwarranted economic pressures." I would like the committee to think about this in its deliberations, and possibly mention it in its report. Can unwarranted economic pressures within this bill be used to stop, let us say, boycotts by labor unions? Could it be used to stop the great Christian passive resistance being exhibited in Montgomery, Birmingham, and Tallahassee? If so, I think the committee should try to approach this with some different type of wording which would protect the power of boycott by labor unions and by passive-resistance groups.

Then there is another item in the bill "about to engage in an act or practice." Is that thought control? Would that power be given to the Attorney General so that he could use this as a sort of thought control device? I know we have the same language in the Defense

Production Act and the Housing and Rent Act and the Veterans' Emergency Housing Act, but in a civil rights act, it seems to me it might be dangerous. It might be an infringement of civil rights to put in a civil rights act giving to the Attorney General what I call though control.

These are relatively minor compared to the greater good, but if the bill could be tightened up in those two respects, I think it would be much more significant, and have much more impact.

The CHAIRMAN. What is the attitude of the chruches in the southern part of of this country concerning this vexatious problem?

Mr. POWELL. You would like to ask the attitude of the Negro churches or white churches?

The CHAIRMAN. All churches.

Mr. POWELL. Speaking as a clergyman and as a Negro, the Negro church is 100 percent in favor of civil rights as has been evidenced by the unanimous witness being given in certain areas of the South led by clergy and headquartered in churches. There have been some very fine pronouncements made by southern church bodies that are non-Negro on this matter, but here and there where there have been white clergymen who got off the plantation, they have been pilloried for it. Yet there have been 1 or 2 isolated instances, such as Rev. Mr. Paul Turner of Clinton, Tenn., who by virtue of his unequivocal stand in favor of civil rights has practically made Clinton, Tenn., a peaceful town, even though it went through a tremendous period of tension last September and October.

The CHAIRMAN. Have not most of the Protestant churches and Catholic churches, and the temples of the Jewish faith declared in favor of desegregation in schools?

Mr. POWELL. Yes, indeed, most of them have.

The CHAIRMAN. That is a great moral force to bring about betterment in that regard.

Mr. POWELL. This is a moral problem. That is why I think that the conscience of America will not know rest until we who sit in legislative bodies bring about legislation to support the moral and ethical standards of our country.

The CHAIRMAN. Without taking up the time of the committee I am going to put in this record at this point statements made by all the various churches throughout the country concerning this matter:

(The statements follow:)

Archbishop Joseph F Rummell, of New Orleans, has branded segregation as "morally wrong and sinful" and declared his intention to integrate the city's parochial-school system, the largest single school unit in the State.

The Protestant Episcopal Church has condemned segregation and is working for integration.

The Methodist Church, largest Protestant body in the Nation, recently moved to abolish its segregated central jurisdiction. The Presbyterian Church in the United States has flatly declared for integration. Delegates of the Southern Baptist Convention, largest church body in the South, endorsed the Supreme Court decision outlawing segregated schools. Leaders of the Congregational Church condemn racial prejudices, major Lutherans want no part of it and spokesmen of other churches are likewise emphatic in their condemnations.

The National Council of Churches, a federation of 30 Protestant and Orthodox bodies, has condemned racial inequality and has quietly launched a program of interracial Christian conference teams to help communities over the jolts of integration.

Roman Catholic Bishop Vincent S. Waters, of North Carolina, faced mob violence in at least one town where he forced the integration of churches.

The CHAIRMAN. Are there any questions? If not, thank you very much, Mr. Powell.

Mr. POWELL. Thank you, Mr. Chairman.

The CHAIRMAN. We have in our presence the distinguished junior Senator from New York, Senator Javits. Senator Javits, will you wait just a few more minutes so that we can hear from Members of the House. They will be very brief, I am sure.

Our next witness is Mr. Paul Brown, Representative from Georgia.

STATEMENT OF HON. PAUL BROWN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. BROWN. Thank you, Mr. Chairman.

Mr. Chairman and gentlemen, I appreciate this opportunity to testify this morning.

I appear in opposition to the so-called civil rights proposals as set forth in H. R. 2145, H. R. 1151, and similar proposals.

H. R. 2145 would create a 5-man commission in the executive branch; create an additional Assistant Attorney General and an entire new division in the Department of Justice; create a joint congressional committee on so-called civil rights with a total of 14 members from the 2 Houses of Congress with subpena power; provide for fines and imprisonment; invest the district courts of the United States with jurisdiction to prevent and restrain acts or practices which would give rise to a cause of action under the first three subsections of section 1985 of the United States Code, and provide that it shall be the duty of the Attorney General to institute proceedings to prevent and restrain such acts or practices; extend the provisions of section 594 of title 18 of the United States Code pertaining to the right to vote in any election to general elections, special elections and primary elections; provide that the right to qualify to vote and to vote shall be deemed a right and protected by the provisions of title 18 of the United States Code and other provisions of law; authorize the Attorney General to bring suits in district court for preventive or declaratory or other relief; and prohibit discrimination or segregation in interstate transportation and provide fines and penalties.

H. R. 1151 would create a 6-man commission in the executive branch with subpena powers; provide for an additional Attorney General; add a fourth subsection to title 42 of section 1985 of the United States Code providing that whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to the first three sections the Attorney General may institute in the name of the United States for a party in interest a civil action or other proper proceeding for redress, preventive relief, including injunctions, restraining order or other order, with the United States liable for costs as a private person; and give to the district courts jurisdiction without regard to whether the party aggrieved shall have exhausted administrative remedies provided by law.

Upon the basis of mere allegations the Congress is asked to make a finding that civil rights are being denied, abridged, or threatened, and to further find that this endangers our form of government. At a time when the Deputy Assistant Attorney General is reported as stating that this country has accomplished more in the past 4 years in the

field of civil rights than had been accomplished in the 20 preceding years, this bill seeks to halt the undermining of constitutional guaranties, and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

A commission is to be set up to study so-called civil rights on the one hand, while on the other hand, before there is any proof of these mere allegations, the Attorney General is to be granted the unprecedented power to invade all of the States and institute civil actions or other proceedings for private parties without regard to exhausting State remedies and apparently without the consent of the private parties. If the Attorney General is empowered to go into the courts with or without the consent of the complainant under the broad language proposed, the limitations upon endless and unwarranted legal proceedings would appear to be governed solely by the judgment or lack of judgment to be exercised by the Attorney General. Never before to my knowledge has there been such an unrestricted grant of authority by the Congress to any Government department.

One of the main questions to be considered is the need for the proposed legislation. The state of the Union message in January 1956 indicated that there were allegations of citizens being deprived of the right to vote and allegations of citizens being subjected to unwarranted economic pressures, and a request was made that a Civil Rights Commission be created to examine the charges and arrive at findings, the assumption being that the facts were not then known. Although I studied the report and hearings on this matter last year, it appeared to me that the allegations were not substantiated. Insofar as I know, these allegations have not been substantiated since that time. The minority report revealed that as late as April 10, 1956, the Attorney General appeared before the Judiciary Commitee and testified that a commission was necessary because "the need for more knowledge and greater understanding of these most complex and difficult problems is manifest." The minority report made reference to the fact that more unreasonable complaints are made in the field of civil rights than any other field, and that in 1940 there were 8,000 civil-rights complaints, with prosecutions recommended in only 12 cases, including Hatch Act violations. It was further revealed that in 1944 there were 20,000 so-called civil-rights complaints and only 64 prosecutions were undertaken, and of the 64 prosecutions the number of convictions is unknown.

The implications contained in these so-called civil-rights proposals constitute a wholesale indictment of the courts of the 48 States and of the State officials who are now charged with the responsibility of rendering decisions or making determinations on matters covered by the proposals. I have the greatest confidence in the fairness and impartiality of our State judges and State juries. I am sure that the substitution of Federal judges for our State jury system is unwarranted and constitutes an unnecessary centralization of power. I would hope that Congress would give recognition to the rights of the States and not join in the spirit of those unprecedented decisions of the Supreme Court which take away the rights of the States and preempt the the field for the Federal Government. This proposed shifting of cases from the State courts to the Federal courts would also appear to be inconsistent with the yearly pleas that more Federal

judges are required due to the fact that these Federal judges are hopelessly behind in their caseloads.

With respect to the purpose of so-called civil-rights legislation, I would like to quote from page 33 of the minority report of last year:

> The real purpose of the enactment of all of the proposals in the pending measure in one package was revealed in a subtle way by Attorney General Brownell in his testimony before the House Committee on the Judiciary in executive session. He developed his theme to the effect that the objectives he had in mind could be more effectively achieved through civil proceedings than by amendment of the criminal statutes. Why? On page 18 of his testimony, the Attorney General lets the cat out of the bag. He pointed out that the Supreme Court, in the case of *Screws* v. *United States* upheld the constitutionality of section 242 of title 18, United States Code, by writing in the word "willful" as part of the offense and then goes on to say that to prove willfulness makes prosecution too burdensome. It is for this reason we submit that the Department of Justice brings forth the idea that the goals to be achieved can better be accomplished by the injunctive process.

I submit that private citizens should not be hauled into Federal court for trial on mere suspicion, whether by injunctive proceeding or otherwise. There is an apparent failure to recognize that irreparable harm would come to a private citizen by his appearance in Federal court even though innocent. The publicity given to such an appearance would have an injurious effect upon the innocent who happen to be unfortunate enough to be singled out and summoned to appear in Federal court. I also note the absence of any provision for damages for these innocent citizens corresponding to the payment of costs by the Federal Government for proceedings filed on behalf of complainants or private individuals. I have no doubt that it may be burdensome to prove willful conduct, but in what manner is guilt to be established except by proof rather than mere suspicion? The fact that willful conduct has been difficult to prove by able attorneys in the Government indicates to me that the abuses are not so great as the proponents of this legislation indicate.

As the minority report of last year indicated, if this legislation is passed, State officials will be met at the threshold with constant litigation. It was pointed out that anyone attempting to perform the duties of a jury commissioner, registrar of voters, school administrator, or duties of interstate or intrastate character must understand that they will be harassed with endless suits by the Government, organizations, and individuals. These officials mentioned are typical of the many officials in our local States and communities who contribute so unselfishly of their time and energies with their principal reward being the appreciation of their fellow citizens and the knowledge that they have made valuable and worthwhile contributions to their communities. To subject these fair, honest, and loyal officials to useless and unjustified harassment in the Federal courts would amount to the imposition of penalties upon community service and the performance of patriotic duties. We must realize that the source of our strength and the hope for our future lies within these communities and not in a strong centralized government to be possessed of such unlimited authority. Although the record is sadly lacking in evidence which would support the need for such legislation, the evidence of the consequences which can result from the abuse of the police power has been clearly established throughout the world. The opportunity for such abuse of the police power is self-evident in the proposed legislation.

It is difficult to understand why greater faith and credit should be given to the mere allegations and outcries of the few who are so vocal in their denunciation of existing law than would be given to responsible local officials. On page 21 of the minority report it was indicated that the testimony consisted largely of hearsay, rumor, and unsubstantiated charges. It was further stated that these rumors and hearsay charges were against State governments and private individuals, and that the FBI had not and could not investigate these charges because of the limitation of the law. The report further states that the FBI was not brought in to give substance to these charges, and that none of the governors or law officers of the States against whom the charges were directed testified or were notified of the charges.

In summary, there is no need for the creation of a commission with respect to civil-rights matters now within the jurisdiction of the State courts, since it is to be presumed that the States are quite capable of handling their own affairs until such time as the States request assistance from the Federal Government. With respect to any civil-rights matter now within the jurisdiction of the Federal Government, since the Attorney General now has a civil-rights section and has engaged in both criminal and civil cases, no additional authority appears necessary. As to the transfer of civil-rights cases from the State courts to the Federal courts, there has been no showing that there is any better assurance of a fair and impartial trial than a guaranty of a trial by jury in the State courts. The consequences of the grant of the authority contained in the bill with respect to the filing of suits on behalf of individuals by the Department of Justice, with or without the consent of the complainant, is indicated from language set forth on page 16 of the hearing. The Attorney General was referring to an investigation by the Department of Justice into the method of selecting jurors in a county, and stated as follows:

> The mere institution of this investigation aroused a storm of indignation in the county and State in question.

I feel that it is the obligation of the Congress to come to the aid of the States in the preservation of those rights which are inherently within the jurisdiction of the States and to express our confidence in their ability to conduct their own affairs by defeating this proposed legislation and by other means available.

I thank you very much, Mr. Chairman.

The CHAIRMAN. Are there any questions? If not, thank you very much, Mr. Brown. We appreciate your coming before us.

We will now hear from the distinguished Junior Senator from New York, Mr. Jacob K. Javits, former member of this House, who made a very distinguished record here, and I am sure will make a distinguished record in the other House.

STATEMENT OF HON. JACOB K. JAVITS, UNITED STATES SENATOR FROM THE STATE OF NEW YORK

Senator JAVITS. I would appear and qualify as an alumnus, but I do appear for two reasons. I know the delicacy of a member of one body appearing in another. I appear first as a citizen, because I am anxious to do everything I can to bring about the earliest possible consideration of this question in both Houses. Secondly, perhaps having been here and now being in the other body, I may be of some use

in a small personal report on what I consider to be the situation there which bears upon your action here.

Mr. Chairman, on the first question as to the body of legislation, I shall not, of course, deal with the details of the bills. This is a matter for the House itself. But I consider the administration's civil-rights program, which is contained in essentially Congressman Keating's bill as they sent it up here, but also in substance in the chairman's bill, to be moderate and the minimum which should be enacted at this time.

I am convinced, also, Mr. Chairman, the enactment of civil rights legislation is possible in this Congress, though no such legislation has been passed for four decades. It can only be accomplished, as so many of us know from our experience in the States as well as in the Federal Government, through bipartisan action. I have never seen a time when the public feeling on this subject was more intense than it is now. Also, when it was more clearly recognized to be a matter not only of domestic, but of foreign policy.

It seems to me also that the duty of the Congress in joining to guarantee civil rights can no longer be overlooked and the Congress should do its part, the executive and judiciary having made vital contributions, especially in the last 10 years to assure civil rights for all of the United States.

Mr. Chairman, I believe that the whole matter can best be served by the House of Representatives, if it is so advised in its wisdom, acting promptly and acting first. I think in that way it can best clear the way for the decisive struggle on this question which should take place early in this Congress in the other body. It is well known that one of the most difficult barriers to the enactment of civil rights legislation has been found in the rules of the other body allowing a filibuster against such legislation. It is now recognized, I think, also pretty widely, and there is much more consideration on this subject than I think ever before, that the situation is ripe for change. The change could be accomplished by amending rule 22 of the Standing Rules of the Senate to allow reasonable debate, and then permit debate to be closed by a majority of that body.

The CHAIRMAN. What are the chances of having that rule amended?

Senator JAVITS. If the chairman would allow me to finish my statement, I will give you my thoughts and then be delighted to answer questions.

The termination of the cloture of debate after a reasonable period, 15 days in fact, by a constitutional majority of the other body is the substance of Senator Douglas' resolution which I have joined as a sponsor.

Also pending is the Knowland resolution which has very considerable support, as does the Douglas resolution, toward the same effect. The Knowland resolution, as is very well known, also has the backing of a very substantial number of members on the Democratic side of the aisle. Therefore, there is far more concurrence of view upon the possibility of amending rule 22 than there has been for a very long time.

I am a member of the Committee on Rules and Administration of the other body, before whom these resolutions are pending, and I shall certainly do my utmost to bring about prompt hearings upon these resolutions, and I deeply believe that there is a very considerable support in the committee as well as in the other body for that position.

Also, I think the situation has been very materially clarified and assisted by the declaration of the Vice President, which I believe will be sustained, that the provisions of rule 22 which exempt from any cloture a debate on amendment to the rules is unconstitutional. I think also there is a real determination in the other body and very many members there to see through the debate on the administration's civil rights bill even despite a filibuster or to get the necessary 64 votes to concur in the cloture of the debate.

The point that I would like very much to leave with you, if I may, is that I see, and I report a crystallization, a strength of sentiment, in these various directions on the Senate rules, on the substantive legislation itself, which I think makes this a very promising time for action upon this very moderate and the minimal legislation. If given a lead which certainly the other body would get if this body acted as it did before, I think there is a far greater prospect of action there than history showed to be the case in the last Congress.

Mr. Chairman, one other thing which I think is very important. We are beginning to learn now, perhaps even in more detail than ever before, what segregation and discrimination on grounds of race, creed or color cost us. I speak now as a citizen. This committee has had a great deal of testimony upon that score. When I was here I was something of a person who was active in the foreign affairs field. I have just returned from a trip around the world which took me into Pakistan and India and the countries of South and Southeast Asia. Though I do not pretend to be an expert, and was not there too long, still the background built up here in eight years of being on the Foreign Affairs Committee, and being acquainted with all of the work of our Government in this field, I think gave me a frame of reference which should entitle me to at least report my own observations.

Mr. Chairman, we have talked here a great deal about how important to our foreign policy is our civil rights position in the United States. This for me is tremendously confirmed by everything that I saw and heard in these very critical countries in the struggle between Communism and freedom. We are fighting essentially, when you get down to cases, over 1,200 million people who are largely Negro and oriental, who occupy the great underdeveloped areas of the Far East, and the Middle East and Africa, and it continues to be true as it has been for some years now—and this time I can testify to it from personal observation—that one of the greatest arguments used against our leadership of the free world with these peoples is that if they follow us and we are synonymous to them with the cause of freedom, the cause of the United Nations and the cause of the west—it is so interesting to me when you talk about the United Nations with these countries, they think of the United States and the powers which are alined ideologically with the United States and never think of it in other terms. Though that is unrealistic, it is true.

The CHAIRMAN. I do not know whether it is unrealistic because after all, from my point of view, the United Nations is no stronger or weaker than the United States wants to make it.

Senator JAVITS. You and I agree with it, and we have discussed it many times. I point out that juridically it is unrealistic. That is the impression you get everywhere. The whole complex that represents the free world stands to them on trial. Constantly I heard it reiterated from the depths of people's hearts that it stood on trial in

terms of what we were doing domestically about our people who were of different racial strains from the normal white majority.

The CHAIRMAN. Some of those leaders in Asiatic countries who make that assertion are turning their cheeks. Mr. Nehru in his own country made statements like that. But I would say before he takes the mud out of our eyes, he should take it out of his own, because of the untouchable situation. There you have millions of Indians who are living in abyssmal depths of servitude and ignorance and subject to all manner and kinds of prejudice far worse than some of the things in our country.

I received with rather mixed emotions some of those statements made by some of those individuals.

Mr. MCCULLOCH. Mr. Chairman, if I might interrupt right there, I cannot refrain from making this observation, and the chairman's fine statement called it to my mind. It seems to me that sometimes here in this country in our enthusiasm to right some wrongs that we have, we magnify our wrongs and we fail to talk nearly so much about our virtues. We create by that approach a false impression around the world.

Senator JAVITS. Mr. Chairman, in response to both observations, might I say I am not unsophisticated in these matters, and understand clearly what both of you gentlemen have referred to. In my own testimony I was referring only to the substance. I many times argued here that I did not care whether we were liked or not liked in terms of our foreign policy. The question is, What did it do? That is what I am talking about.

I would like to give you one instance about that which is rather personal, but which I hope you will forgive me for mentioning. Probably the finest Ambassador we had to India was Jesse Owens, the great American sprinter, who made a great impression. They were talking about it when I was there a month ago. He made a great impression for the reason that Mr. McCulloch was speaking about here. He showed in his own life that not all Negroes in the United States feel tremendously overwhelmed and put upon and unjustly treated. They are fighting like other American citizens for the things they believe decent and right, and taken in total this is a great country and a great life.

In other words, he put the situation in perspective. But he did emphasize in his own person that there was a struggle, that the struggle was going on, that it was meaningful, that it had real purpose, and represented a vindication of our moral standing and strength, giving the people there the impression—I am not talking about political people, but the rank and file people and newspaper editors and publishers—that they too were involved in this struggle themselves, because it represented a moral affirmation of everything that they expected from our country. They expect far more of our country than they do of the Soviet Union or the Communist satellites, despite the softness upon that subject which is prevalent in many quarters in India. They expect more of us, and we are being judged by a far higher standard. That is good as far as we are concerned. It is in that sense in which I was addressing myself to the subject.

In short, I am not talking about the negative, about the criticism, about whether we are liked or not. I am talking about the affirmative,

about the fact that this strengthens and fortifies and makes more secure the kind of leadership that we want to give the world morally. In that sense I found it from personal experience to be a very great factor. Indeed, because it was so graphically before my eyes, greater than I had thought before I went into these areas.

I woul dsuggest, and I know members travel a great deal, that members themselves as they go into these areas, and many do, just be alert to that situation.

Mr. Chairman, just one other point and I am very grateful for your hospitality. I think it is always worthy of note here in discussing this question as to the great economic loss which we take in terms of segregation and discrimination. It may be remembered that Secretary Hobby when she was here, I think before this very committee, estimated it in terms of about 15 to 30 billion dollars a year in terms of the diminution of the productive resources of our country because they are not fully employed.

I was also impressed, and I know the committee has this before it, with the study at Columbia University which showed that we were being deprived of 158,000 Negro high school graduates, and 14,000 Negro college students annually despite our great competitive race to keep up with the fields of education and technology with our giant opponent, the Soviet bloc.

Finally, Mr. Chairman, I have also been impressed in this recent debate in terms of the juridical composition with the great stake of the South in sustaining the authority of the Supreme Court. The Judiciary Committee has had great experience with the fact that the Supreme Court is the fortress of States rights. Indeed, in economic terms the Supreme Court in its basing point decisions and decisions on the equalization of freight rates may have had a great deal to do, I think it has, with what is now considered the new South in terms of its economic situation. So one would rather have hoped for sustaining and backing the authority of the Court, rather than moving in the other direction, that is, looking at the court as an institution.

Mr. Chairman, in summary, I would hope very much that this House will act upon the administration's civil rights package at the least. I favor also the chairman's bill, I have joined myself in Senator Humphrey's bill in the other body, which includes the whole package—the so-called civil rights package—of antilynching, antipoll tax, FEPC, and other bills. I deeply feel, Mr. Chairman, that this is a great moment. The chances are good certainly in this body, and the other body. I think it is a historic moment and I hope very much that we will all of us be equal to this responsibility at such a critical time.

The CHAIRMAN. Would you say as far as our hometown, New York City, is concerned, and our home State, there has been substantial integration.

Senator JAVITS. I would not give New York City, Mr. Chairman, a 100 percent bill of health on that. I would say this, however. I think there is as much sincere effort to deal with the vestiges of discrimination and segregation in housing and the hotly controverted question of schools. I would say there has been as much good will and desire to do it, and enormous public support, as there is in any other city in the country. In short, though we have our troubles, I am proud of New York in terms of its intentions and its desires, and the backing

of its people, and what it is trying to do. I know of practically no other cause—not even reduction in taxes—which produces the outcry in New York City, and indeed, Mr. Chairman, in New York State, a great pioneer in civil rights legislation. I might say to our friends from the South as you have said, and I have said so often, that New York is worth looking at in terms of what mediation has done, and the wisdom with which its laws have been administered in terms of mediation and technical assistance. If memory serves me, and I just served as attorney general of the State, we have had only half a dozen court cases based upon the whole complex of rather tight civil rights laws that we have in the State of New York.

So I think, Mr. Chairman, that we have a right to pardonable pride both in our city and in our State.

Mr. ROGERS. Are you familiar with the article written by David Lawrence about the school situation in New York City?

Senator JAVITS. Mr. Rogers, the article of David Lawrence is not in my mind. I may have read it.

Mr. ROGERS. He in substance said that the economic condition of people in certain areas led to the situation where we practically had segregation because, if you live in a certain area, because of the economic condition, you went to a certain school, which resulted in schools almost exclusively for colored, and schools almost exclusively for Italians and schools almost exclusively for Jewish.

Senator JAVITS. Mr. Rogers, I am aware of that and that is what I meant when I answered the chairman about the hotly controverted facts. It is on the other hand true that in New York City our people are tremendously aroused over these relevations. Our board of education in a calculated and major way is endeavoring to deal with them. It already has made many effective moves in that respect. New schools are being erected to make schools in the areas which you describe equal to those elsewhere. As a matter of fact, during the campaign I had the privilege of speaking in a junior high school in Brooklyn which was beautiful and had resulted from just such agitation.

In short, what I had in mind was to point out that you are dealing in New York City, if there is such a condition and there undoubtedly is to some extent, at least, with an aroused people and an aroused governmental apparatus, which is determined to deal with it effectively and to do away with it in every way.

The CHAIRMAN. Of course, segregation in New York is mainly on the primary level where education is involved, where you have certain neighborhoods which are populated by certain races. Naturally those schools would be more dominated by a particular race. But in higher education we have no such thing.

I might also point with pride to some of our very high officials, the president of the Borough of New York, we have judges, we have members of the legislature in both branches, some of our commissioners and principals of schools, who are colored.

Mr. MCCULLOCH. If that be a fact, is that entirely the result of the physical qualities you find there, and not the planned intention of any people?

Senator JAVITS. Exactly. Not only is that the result of location arrangement by virtue of where people live, but we are engaging in superhuman activities to even change that pattern even though it is in

a sense compelled upon us by the character of certain neighborhoods. That is what I pointed out. In New York our people and our administration are dedicated to constructive efforts to eliminate it, and are making great progress and are having great success.

Mr. ROGERS. I know you have been attorney general of New York and are familiar with the New York laws and election laws, so I ask you this question. When the Attorney General was before us the other day, questions were directed to him with relation to the right of the Federal Government to intervene in a special or primary election to see that law was complied with. In response to a question as it relates to a primary election, he stated that he felt that would only arise in the event that the nomination was tantamount to election. He recognized certain districts in the South as well as in New York City where nomination is tantamount to election.

Can you envision any possible conflict between State law and intervention by the Attorney General of the United States to exercise the right of vote in any of the districts where nomination is tantamount to election in a primary?

Senator JAVITS. I think my answer to that would be no, with the sanction of the courts constantly available. It is a fact that State courts consider the United States Constitution as well as the State constitutions, and their decisions, if they involve the United States Constitution, are appealable to Federal courts. Hence I believe that coupling administrative with judicial machinery you can resolve conflicts in a proper way and complete accord with the orderly structure of the Government. In short, if the Attorney General is proceeding beyond the powers of the Federal Government, no State or citizen of a State will be prejudiced because they have adequate opportunity for judicial review.

The same is true on the other side. I do not feel that there is any grave danger of one of those conflicts which cannot be resolved by our governmental processes.

Mr. ROGERS. And you know of no New York law that it would be in violation of or contrary to if he should intervene in the Federal courts?

Senator JAVITS. I am not trying to address myself to a situation which might be a first impression. I am only trying to address myself to the fact that the governmental machinery is such in our courts in the State of New York, and I believe in the courts of most of the States in the country, that an election conflict can be resolved and not be in a position where either government finds itself frustrated or defied, the State or Federal Government.

The CHAIRMAN. As to New York, I should like to read briefly from a brochure entitled, "What Is Race" issued by UNESCO of the United Nations, on page 57:

> To get a fair picture of how races compare in intelligence as measured by tests we must look at the results of tests taken in the same environment. New York City provides an interesting example. When the education authorities of that city decided on a separate special school for promising children, 500 gifted children were selected on the basis of intelligence tests given in elementary schools throughout the city. When these 500 children were examined as to race, religious, and national background, it appeared that the distribution was approximately the same as that of the population of New York City as a whole, that is, about 10 percent of the 500 were Negro children, corresponding to 10 percent Negro population. The same proportion was true for Jews and for some of the other national groups.

So in proportion to their numbers in New York City Negro children are just as promising as those of any other race or national origin.

Senator JAVITS. Mr. Chairman, I think perhaps my own views on our city and State may be summed up by saying that taking the country as a whole in perspective, we are in the forefront of the effort to integrate completely all our people, regardless of race, creed, and color, and we have achieved a wonderful degree of success. But we are not at the end of the road by any means. We still have things we have to do. You and I and other citizens of New York are trying very hard to see that we do them effectively.

The CHAIRMAN. Are there any further questions? If not, thank you very much.

Senator JAVITS. Thank you, gentlemen.

The CHAIRMAN. We have with us a very eminent member of our own committee, Representative Ashmore of South Carolina. He desires to introduce another Member of our House, Robert W. Hemphill, Representative from South Carolina.

Mr. ASHMORE. Mr. Chairman, it is a pleasure to be here and listen for a few moments this morning. I am primarily here to introduce my colleague, a freshman Congressman from South Carolina, who succeeded the great Dick Richards, and who I am sure is going to be a worthy successor of him.

Mr. Hemphill has made a thorough study of these bills and is an untiring worker and was an outstanding prosecuter in our State, and a general practitioner in the State and Federal courts.

The CHAIRMAN. We will be very glad to hear from you.

STATEMENT OF HON. ROBERT W. HEMPHILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. HEMPHILL. Thank you, Mr. Chairman. I might say before I begin that this morning I noticed in the Congressional Record a very fitting tribute to the chairman which I endorse, and which I am gratified to bring to the attention of the committee on this occasion.

I am grateful for the opportunity of appearing before the committee.

The CHAIRMAN. I did no seek that, I assure you. I am deeply appreciative to our distinguished member, Mr. Holtzman, for that. Years ago some wise men said to a disciple, if you do not seek honors, honors will pursue you. So the younger man who was given the advice said, "Mr. Wise Man, I did not seek honors; yet honors do not pursue me." The wise man said, "But you are always looking backward." I did not even look backward for that.

You may proceed.

Mr. HEMPHILL. I am grateful for the opportunity of appearing before the committee to submit my views on proposed civil rights legislation, and I want to thank the chairman, Mr. Celler, and his staff for their courtesy in arranging this hearing. In behalf of my State, I appreciate your giving us an opportunity to be heard and I understand that representatives will appear before you next week.

It has not been my privilege to be a Member of Congress when other civil rights legislation was considered, but it has been my privilege to be a citizen and a member of the armed services, and as a citizen I am one of those who this bill either is designed to help or to hurt, to crush or to uplift. Let me say here and now, emphatically,

that, with no disrespect to the motives which prompt such legislation, that civil rights legislation is unnecessary in this country today. If it is designed to crush the beliefs of the white people of the South and their way of life, and their traditions, it is doomed to failure from the start; you gentlemen will remember prohibition as an attempt to legislate morals was a failure. If it is designed to help the colored man, it is also doomed to failure, because the abuses which are possible and probable under this legislation will give rise to hatred of the bitterest kind, and in place of mutual respect will create antagonism which will not only continue but be magnified and enlarged through the years. I say this not as a prophet, for I am not one in any sense of the word, but I am an American and the future of America is as dear to me as it is to you.

Since World War II I have been actively interested in politics; during that time I have never seen any man deprived of his right to vote because of race, creed, or color. I have been in the courts both as a defender of the white man, yellow man, and the colored man, and as a prosecutor, and I have never seen a man denied justice because of his race, creed, or color. In by own State, and in adjacent States, the schools erected for the colored, in many cases, exceed in architecture, beauty, and accommodations the schools which the white children attend. In the stores and on the streets and in the business world, as we have done for years, the colored man treats the white man with respect, and the white man treats the colored man with respect. If a poll were taken, by secret ballot, honestly and sincerely, you would find that 90 percent or better of both races would vote against civil rights legislation such as you propose here.

If the Congress passes some civil rights legislation, a few misguided, stirred up, or persons used by others for spurious advancement, will cause accusations to be made, expensive trials and hearings to be had, bitterness to be implanted in the hearts and minds of people, which could never be erased. I know of no State whose laws are not sufficient to take care of the civil rights of any of its citizens regardless of race, creed, or color, and certainly I would not say that of any of the States of which you gentlemen come, particularly New York, a State in whose laws I have every confidence.

Some have said that this legislation is aimed at the South. I hope and pray that we are above sectional legislation in this Congress. I hate to think that I would sit down next to a man in the assembly of the House who had a hatred of my section of the country and who had designed to impose on my section some burden, or some laws, not in the best interest of that section. I certainly have no feeling against any other section, and I have served in the armed services with men from every part of the country and count them among my friends today. But, if such legislation is designed against the South, then it is destined to open old wounds.

You must remember that we of the South are the only Americans whose forbears have ever been conquered. You must remember also that following that unfortunate war known as the War Between the States, there came to our beautiful and hospitable part of the country, a type of renegade which we were wont to call the carpetbagger, because he brought what he had on his shoulders and came to ravage the country of its goods, its profits, and its way of life. The heel of the tyrant was heavy upon us, and we lived in poverty, and the long

climb back bespeaks only of the determination of those whose forebears had not only fought in the War Between the States, but who had participated in the Revolution, pushing back the frontiers, establishing a free religion, and other things so sacred to a free people.

Not until the turn of the century did we start a recovery from the economic burdens resulting from that conflict and only in the past 25 years has an industrial South really come into its own. During these years, race relations, which were at their worst in that disgraceful period known as "Reconstruction," have steadily improved. Compassion of one race for the problems, trials, and tribulations of another have increased. A new thing, the professional colored man has come into our focus, and receives respect and consideration on every hand. The colored man votes as he pleases and the fact that sometimes he block votes may have been criticized, but has never been cause for denying him that right. His educational facilities have been improved, but no attempt has been made to force upon him a state of mind, a way of living, or a degree of thinking contrary to his desires, his environment and his background. Nowhere, so far as I have been able to determine, has the ability of any race been minimized or unappreciated, especially in the Southland. To submit or subjugate any people to investigations, prosecution, subpenas, or the like, will reopen the wounds which have healed. Time has erased most of the scars and we have made progress far beyond our wildest dreams and I ask you to leave us alone if your design be selfish, as we, as a part of America, want to continue along the road to progress.

If I am correct in my recollection of history, Lincoln, himself, was opposed to civil-rights legislation such as you propose here, as he knew the abuses which would take place.

Let me reverse the situation just for a moment. Suppose I had been in the Congress for many years, and I had proposed a bill aimed at some other section of the country, and I had had that bill sent to my committee, and I sat in judgment on the merits or demerits, its approval or its disapproval. Think just a minute, if your section were the target, and then ask yourself how you would feel. I do not say this is true, but there is always a time to stand up and be counted.

As I understand the present situation, your consideration is primarily channeled toward H. R. 1151, which is the counterpart or reconstitution of H. R. 627 of the 84th Congress, the only civil-rights legislation to pass the House last year, and just one of a number of bills before the Judiciary Committee during the last Congress.

From the publicity given this subject at the national conventions of both parties last summer and from the campaign tactics and promises indulged in by many of the candidates, I assume that an even greater number of the so-called civil-rights bills will appear in this Congress. I understand there is an omnibus bill, which is a veritable book or catalog, containing all these bills or campaign promises.

I know the committee does not have the time to concern itself with all these bills. I assume that, as was the case last year, only the New York proposals will receive serious attention. For that reason, I will confine my objections to the Brownell bill, H. R. 1151, offered by Mr. Keating, and the Celler bill, H. R. 1245, offered by the esteemed chairman.

In the testimony before your committee, Mr. Brownell has incorporated his testimony of last year. I note in that testimony. on page 12

of part 2, serial No. 11, under date of April 10, 1956, he gave the following statement:

> Now, it seems to me, Mr. Chairman, that the need for more knowledge and greater understanding of this very complex problem is quite clear.

If the statement of the Attorney General be true, civil-rights legislation is premature at this time because of the lack of information. Highly controversial legislation, such as this, should never be predicated on half truths, or partial information. In this connection, I note that in his written statement he says that the Federal Bureau of Investigation has investigative jurisdiction in this subject matter—page 2 of testimony given February 4, 1957—but its authority is limited to investigating specific charges of violation of Federal criminal statutes. If information is needed, let us make available to the FBI funds which would otherwise be channeled into making up an adolescent, uninformed, and inexperienced Civil Rights Commission, or an inexperienced department, or inexperienced section of the Department of Justice, and direct the Federal Bureau of Investigation to make a complete investigation of the subject, and inform not only the Congress but the entire United States of the true situation, and the facts as they exist. Then we would not be subjected to legislation purportedly designed to correct the situation, the whole truth of which is not known to the Attorney General, who seems to be pushing this legislation.

The CHAIRMAN. May I interject there an observation?

Mr. HEMPHILL. Yes, sir.

The CHAIRMAN. I have been a member of this committee for a quarter of a century, and I can assure you for those 25 years we have been studying and considering civil-rights legislation of the very type that is now before us and its varying facets. We have considered it with endless hearings. I want to emphasize it is nothing new. We have given the most mature reflection and consideration to all these needs.

Mr. HEMPHILL. I am aware of the career of the distinguished chairman, but I noted from the contents of the bill itself, from the statements of the Attorney General, and from the statements of the other witnesses, that this Commission is designed to investigate the necessity for further legislation or other activity. The Attorney General himself has said that we must investigate. I quoted from his testimony just a second ago. For that reason, of course, I assumed as a lawyer, if that was the testimony and the bill so provided, and the testimony so revealed, that all was not known, or else in the first instance we would not be having hearings here in the Capitol, and in the second instance there would be no testimony.

The CHAIRMAN. That is only the Attorney General's opinion. But we have other opinions beyond that.

Mr. HEMPHILL. Of course, I gave some weight to his opinion in my consideration, sir, because it was called the Brownell bill. Naturally, if it is called the Brownell bill, and his testimony said that he had assisted in the preparation or drafting of it, I assume he had some of the truth, whether he had all of it or not.

Are there any further questions?

The CHAIRMAN. No.

Mr. HEMPHILL. May I point out at this point that for some purpose it is sought to place in the Department of Justice powers not hereto-

fore given to any executive branch of the Government—page 13, part 2, dated April 10, 1956. It is admitted that section 1971 of title 42 is applicable here. I would like to place in the record at this point not only section 1971, but section 1972 of title 42 of the United States Code.

It is as follows:

SECTION 1971. RACE, COLOR, OR PREVIOUS CONDITION NOT TO AFFECT RIGHT TO VOTE.

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

SECTION 1972. INTERFERENCE WITH FREEDOM OF ELECTIONS.

No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

Mr. HEMPHILL. On page 15 of testimony previously referred to, certain aspects of the situation appear of which you should take note. In the first instance, mention of alleged restraint in voting in Mississippi by virtue of certain "affidavits" is given as an illustration. I am sure that the distinguished Attorney General, having had the legal experience he has had, will realize that affidavits are easily obtained, especially from prejudiced people, aroused by either false information, or irresponsible organizations. On the same page, he admits the amount of ill feeling stirred up by virtue of civil-rights violations, which I have tried to point out previously in this statement, in telling you that hatred and ill feeling will be bred and nurtured by this proposed legislation.

I should like first to comment on H. R. 1151, sponsored by the Attorney General, Mr. Brownell, because this was the only bill that could clear the committee last year, and, as amended, passed the House on July 23, just prior to the holding of the national conventions.

Part I of this bill would appear simply to add to our long, ever-growing list of Government commissions. But if we examine the duties and powers of the Commission, with enforcement provisions through court orders and punishment for contempt, it unfolds before our eyes that we are authorizing a "grand inquest" into the private lives of our good citizens.

And who is to conduct this inquiry? We see in one section 104 (b) of the bill that the Commission "may accept and utilize services of voluntary and uncompensated personnel." Where would these volunteers come from? Naturally they would be paid for and supplied by the various organizations which have been lobbying for this legislation over a period of years—the ADA, the NAACP, the left-wing political action committees of the rich labor groups.

When we examine our own House, we find that our standing rules only grant the power of subpena to three of our committees—Appropriations, Government Operations, and Un-American Activities. Even our great Judiciary Committee—the great judicial committee of this House—does not possess this power. Likewise, in resolving election contests and in deciding the qualifications of our Members,

the other great judicial committee of this House—the Committee on House Administration—may not use the subpena. Indiscriminate investigative power, backed up by contempt orders and penal provisions could become one of the most ill-conceived evils of our time.

H. R. 1151 represents an attempt by its authors to have Congress delegate to an Executive commission investigatory functions which are even beyond the constitutional authority of the Congress in the first instance. If an appraisal needs to be made of the laws and policies of the Federal Government and an investigation is necessary to get that appraisal, then the proper procedure would seem to be for Congress to make its appraisal first hand and not through a delegated commission operating through volunteers. If the Judiciary Committee feels the need of this appraisal, it would seem proper to apply to the House for approval of a resolution granting the necessary authority and funds.

I doubt seriously whether a committee of the Congress itself, much less one to whom that authority had been delegated, could by subpena so probe into the private affairs of our individual citizens. The Supreme Court has time and again recently been called upon to remind us of the limitations imposed when it comes to investigating the private affairs and efforts of individuals. H. R. 1151 speaks of investigating "economic pressures" among individuals and of studying economic, social, and legal developments and appraising "the laws and policies of the Federal Government." It would just as well include an examination of the "hearts and minds of men."

We recall the broad investigatory powers sought to be exercised by the Lobbying Committee during the 81st Congress. For a refusal to give certain information to that committee a Mr. Rumley was cited for contempt and convicted. The Supreme Court affirmed the decision of the Court of Appeals dismissing the indictment. The Supreme Court declared that no authority exists under the Constitution for a committee to inquire into all efforts of private individuals to influence public opinion. (*United States* v. *Rumley* ((1953) 345 U. S. 41)).

If existing laws are being violated we already have sufficient law-enforcement machinery to bring offenders to justice. If additional legislation is needed it would appear that this committee—the Judiciary Committee—should conduct that investigation.

An additional Attorney General, creation of a Division of Civil Rights:

Part II of H. R. 1151 is, of course, Mr. Brownell's proposal to make a division out of the present Civil Rights Section of his Department. This is another of the many instances in which departmental officers have sought to gain more power and influence by expanding their organization at the taxpayer's expense. This type of expanded governmental activity reached its peak in the late thirties and Congress was forced to do something about it. As a result, the Hoover Commission was created by an act of July 10, 1953 (67 Stat. 142). This Commission on the Organization of the Executive Branch is a work carrying out the declared policy of Congress—

* * * to promote economy, efficiency, and improved service in the transaction of the public business in the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the executive branch of the Government by: recommending methods and procedures for re-

ducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions; eliminating duplication and overlapping of services, activities, and functions; consolidating services, activities, and functions of a similar nature; abolishing services, activities, and functions not necessary to the efficient conduct of Government; eliminating nonessential services, functions, and activities which are competitive with private enterprise; defining responsibilities of officials; and relocating in departments or other agencies those agencies now responsible directly to the President.

I have seen no recommendation submitted by this Commission that more effective administration of justice can be achieved by expanding beyond all proportions a section of the Justice Department which is currently chiefly employed in handling gripes rather than violations of our laws. If we examine an organizational chart of the Department of Justice we see that the Federal Bureau of Investigation is the right arm of that department. It is my opinion that this great Bureau is already equipped to safeguard our people. The Bureau has 6,269 full year investigative employees and an additional 8,100 full year clerical employees. Its 52 field offices extend from one end of the country to the other. It is the fact-gathering and fact-reporting arm of the Department of Justice and has jurisdiction over some Federal investigative matters, encompassing both general investigative matters and domestic intelligence operations.

See annual report of the Director of the Federal Bureau of Investigation, Mr. J. Edgar Hoover, in Attorney General's report, 1955.

In 1924 when the Department of Justice was reorganized, the FBI was divorced completely from the vagaries of political influence which had plagued the Attorney General's office for so many years. This was achieved through the efforts of Attorney General Harlan Stone, later Chief Justice of the United States Supreme Court. See Encyclopedia Americana.

I am in favor of continuing this cardinal rule against political influence in the affairs of the lives of our people. I see no need for an additional Attorney General nor for an additional division in the Justice Department.

I would like to discuss at this time the fact that this legislation proposes that the Federal Government enter the field of instituting private civil suits to recover money damages against individual citizens. I am sorry to take up so much of your time, but I have given a great deal of time to this myself, and I feel that my people have the right to some expression.

Part III of the Attorney General's bill (H. R. 1151) is designed to give fresh life to the old civil rights and enforcement acts passed during the stirred feelings of a sectional war for the purpose not only of enfranchising the newly freed slaves, but also of disenfranchising the white man in the South.

The passage of the very act sought to be strengthened here (act of July 31, 1861, amended April 20, 1871) has been described as ironic by none other than the Swedish Socialist sociologist upon whose studies the Supreme Court based its decision in the school cases. Had the Supreme Court bothered to read the full text of Mr. Myrdal's report they would have found the following:

If the North had not been so bent on reforming the South it is doubtful whether and when some of the Northern States would have reformed themselves (Myrdal, An American Dilemma, pp. 438–439 (1944)).

Ostensibly as one advocate of civil-rights legislation has pointed out, Mr. Will Maslow, director of the commission on law and social action of the American-Jewish Congress:

It is ironic that efforts to enfranchise Negroes in the Northern States during and immediately after the war were defeated in one State after another. Only adoption of the 14th Amendment compelled the Northern States to change their rules on suffrage (20 Univ. of Chicago Law. Rev. 369).

May I comment a minute? I believe the chairman asked a gentleman about the 14th amendment. It is my considered opinion that no legislative action or inaction can deprive a citizen of this country of his constitutional rights. I say that in keeping with the magnificent address I heard you make the other day in consideration of the House resolution on the Middle East which I enjoyed very much.

It is commonly know fact that Mr. Brownell's own State, New York, from whence originated the principal bills now under discussion, was at passage of the Civil-Rights Act and until 1887 the only State in the Union which by positive terms in article II of its constitution of 1846 excluded the Negro from the right to vote. After granting the right of suffrage to white male citizens, New York's Constitution limited the Negro as follows:

* * * But no man of color, unless he shall have been for 3 years a citizen of this State, and for 1 year next preceding any election shall have been seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and shall have been actually rated and paid tax thereon, shall be entitled to vote at such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

The CHAIRMAN. I am sorry I was out of the room. You mentioned New York and about our constitution. Would you kindly repeat that?

Mr. HEMPHILL. Yes, sir. New York at the passage of the Civil Rights Act and until 1887 was the only State in the Union which by positive terms in article II of its constitution of 1864 excluded the Negro from the right to vote. I think my information is correct.

The CHAIRMAN. That has long since passed, 1846, and that provision is no longer in our constitution.

Mr. HEMPHILL. I understand that, sir. I was just pointing out the fact that when you were trying to make progress in your State, we did not interfere. We are trying to make progress in our part of the country, and we ask that you not impede that progress by legislation at this time. That is the point of my remarks, sir. We are concerned with this problem perhaps far more than others because it is on our doorstep, and it is our future.

The CHAIRMAN. I certainly appreciate—and I am sure the other members appreciate—the fact that this is a very difficult problem to solve and resolve. Great progress has been made in many States, including your own State. But on the other hand, nobody knows what the future will bring. The 14th and 15th amendments were accepted by your State. They had to ratify it more or less as a condition of returning to the Union. You agree that nobody should be deprived of their constitutional rights, and the 14th amendment provides for equal protection of the law. You have felt and with a reasonable degree of fairness that in view of decisions of the Supreme Court you were not depriving citizens of their equal rights because you set up equal but separate schools. The Supreme Court has now frowned

on that idea and indicated that is a deprivation of right. How do we answer that?

Mr. HEMPHILL. We will answer it by progress in race relations which we are making now. If you do not give rise to this sort of litigation and prosecution and persecution, which will arouse deep hatred and bitterness, we will make great progress.

I might tell you in my own State we have a sales tax of 3 percent. The revenue from that goes to school construction. The schools which have been constructed from the proceeds of that revenue for white and colored are magnificent schools. In my own county I know of one colored school in particular—and this is true all over my State—which is inferior to none. We are making great progress if you will give us time to do it.

Mr. ROGERS. Are we not confronted with this proposition: The 13th and 14th and 15th amendments were adopted and ratified, and later the Supreme Court placed the interpretation—as in the Supreme Court decision of May 1954—sometimes referred to as Black Monday, I believe, around here by some Members of Congress, which said that there should be desegregation in the schools. Since that decision a number of individuals have gone into Federal courts and secured injunctions against the school boards and said, "You can't have segregation" and the Federal courts have granted injunctions against the school boards. Recently in Clinton, Tenn., the FBI at the direction of the Attorney General investigated the matter and went out and arrested 16 people for contempt of that order who were not even a party to the order. They are now in contempt of court for violating that decree.

Do you not think in the face of the Supreme Court decision where they have entered certain orders that it may be better for us to resolve this problem by statutory law rather than to have a Federal court sitting and issuing edicts and binding everybody? Would not a more logical process be that we pass legislation that at least be known on the statute books so that you would not have to run around in every school district throughout the country to see whether or not a decree had been entered that one may be in violation of, and that one could be cited for contempt about a decree that he knew nothing about? Is not that the problem we are faced with at the present time?

Mr. HEMPHILL. I think the question of the gentleman from Colorado, and the answer I am going to give points out some of my own views here. As the gentleman well knows, we had proceeded under the old decision of Pleesy against Ferguson, which was decided in 1896.

Mr. ROGERS. I know, but the Supreme Court did not follow that in their decision of 1954. You and I as lawyers know that they issued a valid decree and it became the law of the land as announced by them. I do not know of any place that we can go to set it aside unless it is to the Supreme Court. Since that time the matter has been presented on a number of other cases and the Supreme Court has stood fast. Having stood fast for 3 years, we could anticipate that they will stand fast in the future. If they do, I am asking the question, Which is the better procedure to handle it? Shall we require every citizen who feels that his rights are aggrieved to go to the court and get an injunction against a school board? Then if anybody should violate that de-

cree, and they know nothing about it, do you want all the citizens to be subject to being brought in and cited for contempt of court, and follow that procedure which apparently has been set, or would it be better for us, as Members of Congress, to try to spell out by statutes those matters? That is the problem we are confronted with by the present situation. I would like to get your thoughts as to how we should meet it.

Mr. HEMPHILL. Yes, sir. I can answer the question as my view is concerned. When the Supreme Court rendered its decision of May, 3 or 4 years ago, as we understood that decision, that decision was not a decision against segregation of itself, but only where segregation deprived someone of his ordinary rights by reason of race, creed or color. In keeping with that, and with what happened out in the State of Tennessee, sir, I do not want us to substitute legislation of this kind to a Commission which is not experienced for the courts of the land, because as a lawyer I appreciate the fact that the courts of the land offer a man a chance to be heard. As I understand the legislation which is proposed here, you can go and get an injunction before any overt act has taken place.

Mr. HOLTZMAN. But this Commission will have no right to enact legislation. It will only recommend. Legislation will again be enacted in the regular fashion.

Mr. HEMPHILL. Then why do you not delegate the power of investigation to the Federal Bureau of Investigation which has been proven to be one of the finest departments of this Government?

Mr. ROGERS. That is exactly what the Attorney General testified to the other day. When a Federal judge in east Tennessee directed his attention to a violation of the decree he directed the FBI to make the investigation and they made the investigation, with the result that the court issued an order arresting 16 people. As I understand, none of them was parties to this decree. We as lawyers, and I know you appreciate in ordinary procedure there is a method which we follow. I want to know whether we should permit that to stand, and let the Federal court in each district as the matter is presented to them issue the decrees and then if anybody violates them, they bring them up and cite them for contempt, try them in a court without a jury, and sentence them accordingly. Should we permit such a thing to continue, or should we not take it the other way, to create a commission which would investigate and see what should be done, and from that investigation at least make recommendations. But in the meantime there would be nothing wrong, as I see it, with saying that the Constitution, at least as interpreted by the Supreme Court, and the laws of the United States, should be enforced. I want to get your view.

Mr. HEMPHILL. I understand your question. I think the distinguished gentleman is asking me a question like have you stopped beating your wife.

Mr. ROGERS. No.

Mr. HEMPHILL. I want to answer by saying that my initial point was the fact that the States of this Union have on their own statute books sufficient laws to cover any violation and the States are making great progress and at this time there is no necessity for Federal legislation. That was the first point I tried to bring to the attention of this great subcommittee.

The second point I make in answer to your question is that while I do not agree with contempt proceedings against people who are not parties to the original action——

Mr. ROGERS. I do not, either.

Mr. HEMPHILL. I am sure you do not. Just the same, if we are confronted with 2 evils, sir, there is no necessity of making a choice of the 2 evils when we have an avenue, or rather we have authority or a way to proceed under the State laws of New York, South Carolina, or Alabama or wherever it is.

Mr. ROGERS. That raises an interesting question. There is no law in the State of South Carolina, nor is there any law in your State that says that there shall not be segregated schools. It is on the contrary. It says that there are segregated schools. That law of South Carolina runs counter to the Supreme Court decision, because the Supreme Court decision says no State can have segregated schools. You have the local law of South Carolina in force and effect, and you have a Supreme Court decision exactly to the contrary.

The next question that we as lawyers would have to resolve is, which takes precedence? Does the Supreme Court of the United States or the laws of South Carolina?

The Federal courts so far have said that the Supreme Court does. How are we going to resolve that problem? That is the thing we are confronted with.

Mr. HEMPHILL. Yes, sir. We are not going to resolve it, I respectfully submit, by this sort of legislation. This does not say that the Supreme Court of South Carolina or the Supreme Court of the United States is superior. This says we are going to set up a commission, a special department in the Department of Justice, to investigate, make recommendations, and one thing or another. What we are trying to tell you is that we are trying our best to solve these problems. We have made progress which 20 years ago you could not have foreseen or believed would be made. We want an opportunity to continue in our progress without abuses which we know will come from this sort of legislation. Anybody that has a grievance can go in and make a complaint, as I understand it. Someone is subpenaed. As I understand it further, the consent or permission of the aggrieved party is not necessary for the United States Government to step in. The man is brought up for an expensive trial. I know the distinguished gentleman knows how expensive trials are, because he has had a wide practice. The person feels persecuted.

We want to get away from anything like that. We need in this America to get away from it.

Mr. ROGERS. I say we want to get away from it, but we are faced with a practical situation. Any citizen of the State of South Carolina, if he is aggrieved under the segregation decision, can go to the Federal district court in the State of South Carolina, and get an injunction against segregated schools. Are we to meet the problem by having every citizen that feels he is aggrieved go to the Federal court and get an injunction, or should we meet it in some other manner? Personally I do not agree with contempt proceedings against individuals who are not parties to a decree. It is contrary to any fundamental you and I have been taught as lawyers. But as lawyers we have a problem, and how to meet the problem.

The first suggestion that has been outlined is that maybe this commission could make a study and come up with the answer. If you do not have somebody make the study, you are going to be relegated to the proposition of having separate court decrees in every school district in the South and any place where segregation is practiced. Is that the best way we lawyers can work out that answer, that is, by letting each individual go in and get an injunction?

Mr. HEMPHILL. I think any time we substitute for the courts we make a mistake. I say that as a lawyer. I think this would be making a mistake.

Mr. ROGERS. We have the court in there now and whether we like it or whether we do not, they have made an answer and they have stood by that answer for 3 years. If they are going to continue, then the inevitable is that every person has a right to go in and get the injunction and when he gets an injunction, you will have probably a different court decree in every school district. If you do not, do you not think that is more chaos than an ordinary procedure of trying to solve the problem?

Mr. HOLTZMAN. If the gentleman will yield, do you not think that this situation described by Mr. Rogers would lead to more hatred than you talked about a moment ago, where you had outstanding orders of contempt in connection with school desegregation which were being ignored? Do you not think that would lead to more hatred than the other situation?

Mr. HEMPHILL. No, sir. I know the gentleman from New York, if he has practiced much in the courts, and I am sure he has, is aware of the fact that our Federal judiciary are composed of great men, sufficient for the problems that come before them, and to substitute for the fairness which I know exists in that judiciary some commission which is untried would give rise to more chaos than the orderly use of the courts.

Mr. HOLTZMAN. We now have contempt decrees which are in full force and effect which are being ignored. There is no orderly procedure in a situation of that kind, is there?

Mr. HEMPHILL. I think, sir, that would be a matter for the appellate court to which I understand those matters may have been appealed. You are asking me to pass upon whether or not the judge made a mistake in Tennessee. I think he did as a lawyer. I agree with the distinguished gentleman from Colorado. But just the same, I do not want you to say or anybody to say that when the judge made that decision he did not go, insofar as he was concerned, according to the orderly process of the law. I am sure that the distinguished jurist at the time thought he was going in the right direction. Whether or not you and I agree with him does not deprive from him that integrity.

The CHAIRMAN. Are you in accord with that South Carolina statute which makes it unlawful to employ colored and white employees in the same room in the textile industry? It provides that any citizen of a county can sue the offending company that disregards the statute and collect damages. That is title 40, section 452 of the Code of Laws of South Carolina, passed in 1952, dealing with the segregation of employees of different races in the cotton-textile industry. You spoke a moment ago about progress. Would you call that progress when South Carolina passes such a statute of discrimination?

Mr. HEMPHILL. Sir, if you had the privilege of knowing the distinguished members and past members of the South Carolina Legislature, who are as dedicated to their task of government as I am sure you gentlemen are, you would know that when that legislation was passed, it was passed in good faith to help the situation. So far as I can determine, every act we have done in the past 10 or 15 years has been in an effort to make some progress. We have terrific problems, but there is no need for this subcommittee or this great Congress to bring out legislation which will only add to our burdens and intensify any feelings which exist and give rise to things which do not exist now.

The CHAIRMAN. Is it not a fact that we are confronted with bills primarily because of discrimination of the sort as you have in the textile industry? That is one of the reasons why Congress has had its attention drawn to this matter. These kinds of situations do not make for progress. They make for retrogression. That is why Congress has to address itself to the matter.

Mr. HEMPHILL. Insofar as my own personal experience is concerned, I know of no instance where a man of ability has not had his ability recognized in my State or any other southern State in any of the industries. So far as the legislative enactment is concerned, if my legislature passed it, and the Governor of my State saw fit to sign it, I am sure in their wisdom they must have considered that it was best for the people, or a majority of the people, because we still believe that a majority in a democratic state or nation speaks.

Mr. HOLTZMAN. I would like to ask the gentleman this: In his statement the gentleman said that no legal action, and no legal inaction, and I believe I quote accurately, could deprive a citizen of his rights under the 14th amendment; is that correct?

Mr. HEMPHILL. That is my view of it.

Mr. HOLTZMAN. How about this Carolina statute that the chairman just described? Would that be depriving a citizen of his rights under the 14th amendment?

Mr. HEMPHILL. I do not believe it would because of the fact that the consideration of what would be for the best interests of all the citizens was certainly under consideration by the legislature, and the executive department of my State at that time.

Mr. ROGERS. You agree that so far as we are concerned, as the Congress of the United States we cannot pass statutes that are not in conformity with the authority given to Congress under the Constitution. If that is true, and the Supreme Court having made certain interpretations of the 14th amendment which apparently you do not agree with, should the Federal Government or should the Congress take any action to carry out the authority of the Supreme Court which they interpreted in the 14th amendment?

Mr. HEMPHILL. I do not believe it is necessary because the gentleman a while ago was asking me a question, and I believe he pointed out that every citizen who is aggrieved has a right to go into the courts. As long as he has the right to go into the courts, he has a process and a source of having his grievances heard. I know the distinguished gentleman from Colorado feels like I do, that there is no necessity now or in the future of promoting litigation of this kind, hearings of this kind, or feeling which would arise from such litigation.

Mr. ROGERS. I know, but we have a problem. I am trying to resolve in my mind how to meet it. The problem created itself in the Supreme Court decision as it relates to the segregation issue. Having been created that all statutes of States which set up segregation cannot be enforced—having that conflict in those States having segregation with the Supreme Court decision—should we attempt in some manner to meet that other than the method that has been used of having an injunction issued in each school district? That is the problem that we are confronted with.

The first thing in this bill, as I view it, is to set up a commission to make this study. Is there any objection to making a study to try to solve that problem that exists?

Mr. HEMPHILL. I think my answer to that would be that the gentleman who preceded me here as I understand was a former distinguished attorney general of the great State of New York, presently a Senator, and a former Member of the House of Representatives, and I noted he said that there were difficulties in his own State, but he was proud of the progress that was being made. There are difficulties in every State, I assume, but we are making progress.

My view of the matter is that if you leave us alone, we will continue to make progress. Whereas if you put this legislation into effect, then instead of progress we are going to have difficulties which arise from this sort of statute.

Mr. ROGERS. You feel that when the Supreme Court decision said that they should work this out gradually that gradual progress has been made and a solution will soon be had without legislation?

Mr. HEMPHILL. I think progress is being made. I am like every other American, sir. I want a solution to this problem. Every American does, regardless of where he comes from. That is one of my points here. The fact that I am from the South and you are from the West makes no difference. You and I are concerned, and I know you are dedicated to what you are trying to do here. But give us a chance to work this thing out.

I noted with interest what you said to the gentleman about the Lawrence report. I am also cognizant of a report that came out in the U. S. News & World Report about the Capital of this great land. I know that from every side we are being besieged with opinions and half-truths, but we must recognize the fact that we are making progress not only in our race relations, but in every other field and phase of civil rights. Is is my firm belief that if we are left alone, sir, we will make further progress and do far better than we would to have this legislation enacted at this time.

In order to give this or future committees the benefit of what I would consider to be testimony of great importance, I propose with due respect to the authors of the bills before the committee, that the Federal Bureau of Investigation be given the job, because we in the South have known of the magnificent work of that great organization.

Mr. HOLTZMAN. May I ask the gentleman—he has kept referring to the South and North—does the gentleman believe that this is a sectional problem, or does he not really feel that this is an American problem, a problem of democracy? Would not the gentleman say that would be a fairer representation of what this problem is?

Mr. HEMPHILL. To answer the gentleman from New York, I think any problem which is a problem of your people is a problem of mine.

The problem of my people is a problem of yours. We had once a great schism in this Nation with one of the most unfortunate chapters in our history. It took us a long time to get over it. But we have made magnificent progress. As I said, if the gentleman remembers when I started out, that some said this was sectional legislation, and I did not say so, and I hope and pray it is not.

Mr. HOLTZMAN. Do you think that this legislation is aimed at the South?

Mr. HEMPHILL. No, sir, because in fairness I do not want to accuse any distinguished Member of Congress of sectional legislation. I hope I am above it and I hope every Member of Congress with whom I am privileged to serve is above it.

The CHAIRMAN. I just want to say that we have one other Member of the House and I do not want to keep him too long before we recess. Is there much more to your statement?

Mr. HEMPHILL. I can cut it short. I appreciate the gentleman's question. I am sorry it took so long.

The CHAIRMAN. It was not your fault. It was our fault. We do not want to cut you off, but you use your own discretion in that regard.

Mr. HEMPHILL. I will try to be brief in my remarks. I would like to point out some technical phases which I would like to have this subcommittee look into.

The United States Supreme Court has on numerous occasions declared emphatically that political rights cannot be enforced either by mandamus or the alternative injunction. See *Colegrove* v. *Green* (1945) (328 U. S. 549, 555) and *Stevenson* v. *Johnson* (1948) (170 F. 2d 108, cert. den. 336 U. S. 904).

On this subject let me read from American Jurisprudence, the law of injunctions—the type of injunction the Attorney General seeks to go forth indiscriminately and obtain (Am. Jur., v. 28, pp. 267–268):

> * * * To assume jurisdiction to control the exercise of political powers, or to protect the purely political rights of individuals, would be to invade the domain of the other departments of the Government or of the courts of common law, and might result in grave consequences, both to the courts and the people. This rule restricting persons to remedies at law, to the exclusion of equitable remedies, for the vindication of political rights is not a denial of due process of law, or of the equal protection of the laws. The rule assumes, of course, that the acts in question are purely political and involve no substantial injury to property rights. If there is a foundation for equitable jurisdiction to issue injunctive relief because some injury to property rights is involved, the fact that the determination of the controversy may depend upon the decision of a political question will not deprive the court of jurisdiction. It is only where the property right involved is merely incidental to a political question that equity will not assume power to grant injunctive relief. An election is a political matter, and as such falls within the principle that courts of equity will have nothing to do with such matters, and, subject to recognized exceptions involving injury to property rights, injunction will not issue for the purpose of restraining the calling or holding of an election, or of directing or controlling the mode in which, or of determining the rules of law in pursuance of which, an election shall be held. Nor will equity undertake by injunction or otherwise to supervise the acts and management of a political party for the protection of a purely political right. Equity does not interfere by injunction to determine questions concerning appointment or election of public officers or their title to office. In accordance with their policy not to interfere in regard to matters of a political nature, courts have also declined to enjoin a citizen from petitioning either branch of legislature upon any subject of legislation in which he is interested, since such an injunction would be an unauthorized abridgment of the political rights of the party enjoined.

The Attorney General seeks power to conduct our local and State elections as well as our congressional elections.

Part IV of H. R. 1151 is one of the most fantastic pieces of legislation ever recommended to the Congress. The design, drafted in the concise language of a law of Congress, seeks to so thwart our Constitution as to substitute the Attorney General and the courts for the States in determining how our elections are to be conducted.

The objective of the Attorney General is sought by amending section 1971 of title 42, United States Code. If we examine the very next section of the United States Code, that is, section 1972 of the same title, anyone can see that even the Congress which submitted the 14th amendment made it plain that they wanted no interference with the freedom of our elections from governmental officers, whether of the Army or the Navy or by order of anyone—much less the Attorney General.

Section 1972, enacted February 25, 1865, reads as follows:

> No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

Anyone familiar with the history of the expansion of our country westward from the seaboard across the plains to the Pacific knows the many instances when Federal troops were stationed in Territories solely to swell the vote and affect one way the organization of the Territory or its admission to the Union. This was the case in Nevada. At one time the Missouri constitution denied the right of soldiers to vote. Texas still denies the right to vote of members of the Regular Establishment. Practically every State in the Union has a constitutional provision that a member of the Armed Forces does not gain residence for purposes of voting merely by being stationed in the State.

Here, in part III of H. R. 1151, we have the Attorney General moving into the States, on the basis of simple affidavits or ex parte statements, and using the civil process to conduct registration and voting. In the Attorney General's own statement to this committee on April 10, 1956, he explained:

> And second, to authorize the Attorney General to bring civil proceedings on behalf of the United States or any aggrieved person for preventative or other civil relief in any case covered by statute. (Civil Rights, pt. 2, hearing before Committee on the Judiciary, House of Representatives, 84th Cong., 2d sess., p. 15.)

Does this authorize the Attorney General, as a "preventive" measure, to get court orders against our local registration and election officials and have voters into court on election day? If so, it would violate the present laws of every State and the constitutions of most of our States. For instance, let us look at New Jersey's law:

> SEC. 19:4-4. ARREST UNDER CIVIL PROCESS ON ELELCTION DAY. No person who shall have a right to vote at any election shall be arrested by virtue of any civil process on the day on which such election shall be held.

All of these laws governing use of troops and the civil process on election days have been passed for one reason: to safeguard the voter and to allow the States to conduct their elections according to law.

A study of the administration of the various civil rights laws shows conclusively that they did not succeed. For the most part they

were declared unconstitutional. They were finally repealed by the Republicans under President Taft on March 4, 1909, upon a revision of the United States Criminal Code (35 U. S. Stat. 1088).

Actually the Civil Rights Acts, even during the worst years of the reconstruction period, were not effective. Attorney General after Attorney General reported to Congress that convictions could not be obtained because most judges thought the laws were unconstitutional. (See U. S. Attorney General, Reports, 1870–97.) So the Republican Congress in 1909, upon the recommendation of the Attorney General, dropped the remaining civil rights laws, except those in the Judicial Code vesting district courts with original jurisdiction to enforce sections 19 and 20 of the old criminal code having to do with action by a State in depriving citizens of their "rights and privileges secured by the Constitution." (See *U. S.* v. *Classic* (1941) 313 U. S. 299.)

That in 1909, as in the case today, no need existed for Federal civil-rights legislation is clearly borne out by two factors.

The first is that prosecutions under the old acts flickered out. As the table I have here indicates, there were 314 cases in 1871, only 25 cases in 1878, and none in 1897.

I should like this table to be made a part of my testimony. It is taken from the Reports to Congress of the Attorneys General from 1871 to 1897.

The CHAIRMAN. That may become a part of the record at this point.

(The table follows:)

Cases of all types under the enforcement acts handled by the Attorney General

Year	Prosecutions, including cases pending	Terminated cases	Year	Prosecutions, including cases pending	Terminated cases
1871	892	314	1885	[2]	[2]
1872	[1]	[1]	1886	11	10
1873	1,960	1,304	1887	28	6
1874	366	966	1888	2	59
1875	299	234	1889	6	12
1876	142	152	1890	3	2
1877	305	234	1891	3	12
1878	56	26	1892	0	0
1879	297	146	1893		92
1880	269	70	1894		8
1881	158	95	1895		31
1882	[2]	[2]	1896		
1883	25	9	1897		
1884		23			

[1] Included in 1871 and 1873 reports.
[2] Undetermined.

Chronology of incidence of so-called lynching in the United States

[As reported by Tuskegee Institute, Department of Records and Research]

Year	White	Negro	Total	Year	White	Negro	Total
1900	9	106	115	1929	3	7	10
1901	25	105	130	1930	1	20	21
1902	7	85	92	1931	1	12	13
1903	15	84	99	1932	2	6	8
1904	7	76	83	1933	4	24	28
1905	5	57	62	1934	0	15	15
1906	3	62	65	1935	2	18	20
1907	2	58	60	1936	0	8	8
1908	8	89	97	1937	0	8	8
1909	13	69	82	1938	0	6	6
1910	9	67	76	1939	1	2	3
1911	7	60	67	1940	1	4	5
1912	2	61	63	1941	0	4	4
1913	1	51	52	1942	0	6	6
1914	4	51	55	1943	0	3	3
1915	13	56	69	1944	0	2	2
1916	4	50	54	1945	0	1	1
1917	2	36	38	1946	0	6	6
1918	4	60	64	1947	0	1	1
1919	7	76	83	1948	1	1	2
1920	8	53	61	1949	0	3	3
1921	5	59	64	1950	1	1	2
1922	6	51	57	1951	0	1	1
1923	4	29	33	1952	0	0	0
1924	0	16	16	1953	0	0	0
1925	0	17	17	1954	0	0	0
1926	7	23	30	1955	0	3	3
1927	0	16	16				
1928	1	10	11	Total	195	1,795	1,990

South Carolina Antilynching Law

(South Carolina Code of Laws (1952), title 16, sec. 16-57-16.59.4)

Article 2

Lynching

Section 16-57, *Lynching in the first degree*

Any act of violence inflicted by a mob upon the body of another person which results in the death of the person, shall constitute the crime of lynching in the first degree and shall be a felony. Any person found guilty of lynching in the first degree shall suffer death unless the jury shall recommend the defendant to the mercy of the court, in which event the defendant shall be confined at hard labor in the State Penitentiary for a term not exceeding forty years or less than five years, at the discretion of the presiding judge.

Section 16-58. *Lynching in the second degree*

Any act of violence inflicted by a mob upon the body of another person and from which death does not result, shall constitute the crime of lynching in the second degree and shall be a felony. Any person found guilty of lynching in the second degree shall be confined at hard labor in the State Penitentiary for a term not exceeding twenty years nor less than three years, at the discretion of the presiding judge.

Section 16-59. *Mob defined*

A "mob" is defined for the purpose of this article as the assemblage of two or more persons, without color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another.

Section 16-59.1. *Persons present deemed members of mob*

All persons present as members of a mob when an act of violence is committed shall be presumed to have aided and abetted the crime and shall be guilty as principals.

SECTION 16–59.2. *Duties of sheriff and solicitor when mob commits act of violence*

When any mob commits an act of violence, the sheriff of the county wherein the crime occurs and the solicitor of the circuit wherein the county is located shall act as speedily as possible to apprehend and identify the members of the mob and bring them to trial.

SECTION 16–59.3. *Solicitor may investigate to apprehend members of mob*

Pursuant to Section 16–59.2, the solicitor of any circuit shall have summary power to conduct any investigation deemed necessary by him in order to apprehend the members of a mob and may subpoena witnesses and take testimony under oath.

SECTION 16–59.4. *Civil liability of members of mob*

This article shall not be construed to relieve any member of any such mob from civil liability.

VIRGINIA ANTILYNCHING LAW

(Virginia Code (1950), title 18, section 36–42)

ARTICLE 2

Lynching

SECTION 18–36. *Mobs and lynching defined.*—A collection of people, assembled for the purpose and with the intention of committing an assault or a battery upon any person and without authority of law, shall be deemed a "mob" for the purpose of this article; and any act of violence by a mob upon the body of any person, which shall result in the death of such person, shall constitute a "lynching" within the meaning of this article

Indictment using word "mob" without elaboration is sufficient.—Defendant was charged with being one of a "mob" and in that capacity with feloniously assaulting another. The "lynch law" (this section) defines a mob. Therefore, an elaboration in the indictment of these statutory provisions defining a mob is not necessary, as they are too plain for argument and could not possibly have been misunderstood.

Statement of member of mob at time of assault admissible.—Objection was made to the admissibility in evidence of statements made by a member of the mob at the time of the assault, to the effect that the person assaulted had run his wife away from home and put her in an institution. It was held that all that was then done and said was part of the res gestae and competent.

SECTION 18–37. *Lynching deemed murder.*—The lynching of any person within this State by a mob shall be deemed murder, and any and every person composing a mob and every accessory thereto, by which any person is lynched, shall be guilty of murder, and upon conviction shall be punished as provided in article 1 of this chapter.

SECTION 18–38. *Assault and battery by mob; nature of offense.*—Any and every person composing a mob which shall commit a simple assault or battery, shall be guilty of a misdemeanor and punished as provided for by Section 19–265; and any and every person composing a mob which shall maliciously or unlawfully shoot, stab, or wound any person, or by any means cause him bodily injury fith intent to maim, disable, disfigure or kill him, shall be guilty of a felony, and upon conviction shall be confined in the penitentiary for not less than one year nor more than ten years; provided, however, that if such injury shall result in death of such person, each and every principal and accessory of such mob, and accessory thereto, shall be guilty of murder, and upon conviction shall be punished as provided in Section 18–37.

SECTION 18–39. *Apprehension and prosecution of participants in a lynching.*—The attorney for the Commonwealth, of any county or city in which a lynching may occur, shall promptly and diligently endeavor to ascertain the identity of the persons who in any way participated therein, or who composed the mob which perpetrated the same, and have them apprehended, and shall promptly proceed with the prosecution of any and all persons so found; and to the end that such offenders may not escape proper punishment, such attorney for the Commonwealth may be assisted in all such endeavors and prosecutions by the Attorney General or other prosecutors designated by the governor for the pur-

pose; and the Governor may have full authority to spend such sums as he may deem necessary for the purpose of seeking out the identity and apprehending the members of such guilty mob.

SECTION 18-40. *Civil liability for lynching.*—Nothing herein contained shall be construed to relieve any member of any such mob from civil liability to the personal representative of the victim of such lynching.

SECTION 18-41. *Persons suffering death from mob attempting to lynch another person.*—Any person suffering death from a mob attempting to lynch another person, shall come within the provisions of this article, and his personal representatives shall be entitled to relief in the same manner and to the same extent as if he were the originally intended victim of such mob.

SECTION 18-42. *Jurisdiction.*—Jurisdiction of all actions and prosecutions under any of the provisions of this article, shall be in the circuit court of the county or corporation court of the city wherein a lynching may occur, or of the county or city from which the person lynched may have been taken, as aforesaid.

Mr. HEMPHILL. The second and perhaps the chief reason was the very important fact that the States had acted to preserve the ballot for all people—white and colored. Also, they had acted to prevent mob violence.

I have here, for instance, the text of laws now in force in South Carolina and Virginia to punish lynching. I should also like to insert here the laws of these two States. Most of the other States have similar and effective laws against lynching. I have a table here showing there have been only 4 lynchings throughout the United States in the last 5 years. There were none in 1953 or 1954.

The CHAIRMAN. Do you include the election laws of South Carolina in that data that you are going to submit?

Mr. HEMPHILL. No, sir; I can get them for you without any difficulty.

The CHAIRMAN. It might be well if you could furnish them for us.

Mr. HEMPHILL. I would be delighted to do that. I think you will find they are as fair as any in the land. I say, without fear of reprisal, they are administered as fairly as any in the land.

(The election law of South Carolina, as referred to, is retained in the committee file.)

Mr. HEMPHILL. Similarly my State, South Carolina, has repealed the poll tax to remove any doubt as to whether this tax could be used to deny persons the right to vote. Actually, the tax was used to support schools and we badly need the funds, but anyway, the tax has gone.

I assume that you gentlemen are sufficiently versed in the laws of the land and the various States, by reason of your being on the Judiciary Committee of the House of Representatives, to realize that in every State there are not only applicable, but adequate criminal statutes, or, common law provisions in effect, to guarantee any necessary civil rights to any person or persons. The scope of the proposed legislation as it appears to me as a lawyer is to encompass the administration of whatever laws are in effect, and this the Supreme Court of the United States has held to be without the jurisdiction of the Federal courts, and, therefore, unconstitutional. In 1898 in the case of *Williams* v. *Mississippi*—evidently all certiorari from the Supreme Court of the State of Mississippi, the Supreme Court of the United States held (vol. 170, pp. 213-219):

It has also been held, in a very recent case, to justify a removal from a State court to a Federal court of a cause in which such rights are alleged to be denied, that such denial must be the result of the constitution or laws of the State, not of the administration of them.

If this is an attempt to substitute the laws of the United States for the laws of the States, then we are doing an injustice to every State of the Union, including your own.

I want to call this to the subcommittee's attention. I think the import of that decision is that the Supreme Court of the United States may have a right to pass upon the law of a State, but the Federal courts insofar as administration of that law is concerned are without jurisdiction.

It is neither practical nor legal to attempt a protected umbrella over all the real or imaginary evils of man's humanity or man's inhumanity to man, especially in the field of race relations. We are witnessing here an attempt to reach beyond the Constitution, usurp the powers of the States and create a monster, which will probably, if created, be out of control long before its maturity. Such was realized in the case of the *United States* v. *Reese et al.* (92 U. S. 214–221) where an attempt was made to divest Kentucky of its right to set forth the qualifications of electors.

You gentlemen are doubtless familiar with the facts that the defenders in that case were indicted for their conduct of a municipal election, demurred to the indictment on the grounds the Supreme Court of the United States had no jurisdiction. In holding the States had the right to set the qualifications for electors the Court stated:

> It would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside and say who could be rightfully detained, and who should be set at large. This would, to some extent, substitute the judicial for the legislative department of the Government. The courts enforce the legislative will when ascertained, if within the constitutional grant of power. Within its legitimate sphere, Congress is supreme, and beyond the control of the courts; but if it steps outside of its constitutional limitations, and attempts that which is beyond its reach, the courts are authorized to, and when called upon in due course of legal proceedings must, annul its encroachments upon the reserved power of the States and the people.

I bring these cases to your attention, as I am certain you would not wish to pass legislation, or even consider it, if it were unconstitutional by nature and beyond the powers of the Federal Government in scope.

In conclusion, let me say that if you are going to consider such legislation as this, instead of creating some commission, use the recognized and appreciated facilities which are available. As I understand the Federal Bureau of Investigation is a creature of the legislative powers of the Congress under the Department of Justice. By giving certain powers to that executive branch of the Government, that is.

The CHAIRMAN. I am afraid we will have to adjourn now, and we may have to hear your statement later.

Mr. HEMPHILL. If you will give me 3 minutes, I will be finished.

The CHAIRMAN. Very well.

Mr. HEMPHILL. Therefore, we ask that you consider this, and I know you will, aside from any poltical pressures or anything that you heard before which might bespeak of political pressures. I speak to you and beg you as a Member of Congress and as an American. I want to tell you now that I deeply appreciate your consideration and your letting me appear, and it has been a privilege to appear before you. Thank you.

The CHAIRMAN. We are very grateful to you, sir. You made a very excellent statement. I do not necessarily agree with all of it, but that is part of the game, as you know.

You are privileged to submit any additional statements or data that you care to submit.

Mr. HEMPHILL. With your permission, I will include the election laws of my State, and I may submit supplemental information. I might say that one of the great things about America is the fact that when men disagree, we have some chance of arguing.

The CHARMAN. Our next witness is Congressman Abbitt of Virginia.

STATEMENT OF HON. W. M. ABBITT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. ABBITT. Mr. Chairman, I appreciate very much the opportunity of coming by and testifying before this great Committee on the Judiciary of the House of Representatives. I am vitally interested in the proposals before this committee, and I appear in opposition to them. I realize the lateness of the hour, and that we have a very important matter before the House, so I will ask unanimous consent that I might submit my statement.

The CHAIRMAN. You have that privilege.

STATEMENT OF HON. W. M. ABBITT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. Chairman, I wish to thank the committee for extending me the privilege of being heard today in connection with the proposed civil-rights legislation, and I wish to address myself generally to the problems posed by the various bills pending now before this committee.

It is my firm belief that nothing we do during this session of the 85th Congress will be of more importance nor have a wider effect upon the future of this country than the action we take with reference to this great issue. Many actions of this Congress will be debated and discussed throughout the world, but the lasting effects of this legislation, in my opinion, will be such that no man can foresee

It is unfortunate that a matter so important as the rights and privileges of our people should be dragged in the depths of political controversy as this civil-rights question has. We have just passed through another election campaign in which much political capital was made from the promises and pledges of various partisan groups for and in behalf of candidates who paraded before the people their intention of voting for this legislation. Few issues in our time have caused so much confusion in the minds of our people or spread such ill will as has this one.

In view of the action taken a year ago, certainly I have no illusions about the result when this matter is brought before the House. Commitments have already been made to various organizations in behalf of this legislation, and the effects of the recent campaign are all too clear to imagine otherwise.

But my purpose in being here today is to sound another call for temperate thinking on the part of this group; to somehow impress upon your committee the practical side of this issue as seen through the eyes of one who honestly and passionately believes that enactment of this legislation would be a great blow to the cause of freedom in this great country of ours. Last July when this came before the House, I made a similar plea, as did many others who are interested in the future of America. Our plea was, of course, not heeded; but I believe that persistent education is a good policy, and it is my hope that by emphasizing enough the great dangers in this sort of thing, we may be able to somehow temper the judgment of those who are determined to ram this legislation through the Congress for political advantage.

It is unfortunate that this proposed legislation has been so widely publicized as the "civil rights bills," as this misnomer is confusing to the public. By "civil rights" we mean a guaranty of the fundamental rights set forth in the Constitution, not a hodge-podge concoction of legislation which ultimately will mean the abandonment of the very freedoms we are trying to preserve. These so-called

civil-rights bills are derived not from a basis of fact or constitutionality but spring from a political interpretation of what is good for a particular segment of our people and actually defy the very freedoms the Constitution was designed to protect.

This is iniquitous legislation. It strikes at the very heart of the basic, fundamental premise of the Constitution—that the Federal Government is to have only those powers specifically given to it by the Constitution, and that the remaining power is to be reserved to the States or to the people themselves. In recent years we have seen a carefully executed plan develop whereby more and more of these powers, once reserved to the States or the people, have been taken over by the Central Government. This proposed legislation would put the skids under this gradual usurpation of power and allow the Justice Department almost unlimited authority to go about the country and coerce those who disagree with a particular philosophy into complying or else be subjected to unspecified punishment.

This is not only a dangerous action and a terrible trend; it is a cause for great alarm on the part of our people. Certainly, this so-called civil-rights legislation is today aimed at the South, but tomorrow it may be used against another section or another segment of our people because of nonagreement with a particular point of view. Other sections of the country which seem so willing to cram this down the throats of the South may well consider the fact that their antipathy towards us is based upon one single issue, but the broad field of liberties threatened by these bills could well mean that is another day, the North, the West, or the East might be similarly affected by the same legislation.

What we are opposed to here is not only the steps which these bills propose with respect to the right to segregate or the right of a State to function within its own borders the way it deems best for its people, but the constant encroachment of the Federal Government upon the rights and functions of the people and the States. Centralized power in Washington has never been good, but the kind of centralization which we are now up against is a kind which knows no end, which has no goal but the deprivation of personal rights and which seeks to draw to the Federal Government rights and powers which were never intended by the Constitution.

Regulation from Washington is becoming more concentrated every year, but the kind of regulation envisioned by these bills is one which knows no end save destruction. This octopus-like power is dangerous because it strikes at the heart of the Bill of Rights. It is improper to call what is now proposed "civil rights." Rights for whom, may we ask? Are we to remake and emasculate our Constitution to serve one group at the expense of all the others among our citizens? Will we have won if, in order to win the favor of certain minorities, we bring confusion and untold denial of privilege to others? This, in my opinion, is what would be the outcome of the bills now before you.

The head-long fight made last year to pass these bills in the House may have accomplished its purpose in winning favor in certain election contests, but now we have more time in which to weight the great issues involved and go about this business with coolness and discretion. There is no sense in rushing into a decision. We should carefully examine the issues involved; analyze the results to be achieved, and look to the future and attempt to foresee what the real effect will be.

The possibilities of this legislation are so tremendously dangerous that both major parties should examine the prospects before rushing into a race to win the favor of minority elements. Retreat at a later date may be impossible because the very liberties we seek to preserve today may be gone by the time our leaders wake up and find they have miscalculated on the limitations of this bill. I say to you that my interpretation of the issues involved here leads me to believe there is no limitation upon what can be done.

We are witnessing an attempt by certain groups to have the Congress strike down with one stroke of the legislative pen the theory of our very form of government. The proposals we have before us strike down the right of trial by jury—even though certain elements of the judiciary have already tampered with this right. It does away with the sovereignty of our States. They would deprive the individual citizen of the right to be tried in his local court.

But the most far reaching proposal of all is the establishment of a small "gestapo" in the office of the proposed Assistant Attorney General. There is no indication here of how far this group of investigators might go in their investigations, what they would do or whether they would confine their activities to any particular area of complaints is not known. No member of this Congress

has been able to tell me what limitations there might be upon such investigations. I don't believe anyone knows. Certainly it is not in the bills before you. This, in my opinion, would open up a "Pandora's box" of problems which will far exceed anything we have today. In the final analysis, if this program is passed, we would need further legislation then to protect the rights of our people from the dangers of encroachment created in this program.

I tell you frankly that I am opposed to the basic purposes behind all these measures because I know full well that they are politically inspired None of those who are so determined to pass this program have any guaranty that passage of these bills would meet the problems they think they see. These proponents are for these bills because of a desire to meet the demand by small political minorities who seek to increase their own influence by curbing the rights of others.

Let us look at what these bills propose to do. In the first place, there is the proposal to establish a bipartisan commission to investigate civil rights. There are no curbs provided for what they are to investigate or how they are to do it. Our people could be dragged from all corners of the country and brought before the commission without a charge being placed against them and without knowing who made the charge. They can be coerced into giving testimony and punished for knowing something, even though their own actions may be entirely without question. Such a commission would be dangerous because it would have powers which are not defined, it would have no limitations upon its actions and would surely come under political influence of those who recklessly make charges of deprivation of rights

But what this Commission would not do to destroy the rights of our people, the second proposal would most certainly do. This would create within the Justice Department a Civil Rights Division with broad powers and heavy expense accounts to go about the land and investigate wherever they choose. Already there are too many encroachments upon the rights of States, but in the establishment of such authority, the police rights of the States would be diminished to the greatest degree we have ever witnessed in this country. No one knows what the cost of this program would be, but if its cost is to be based upon the amount of work done, we can well imagine that before long the volume of reckless charges would mean an "army" would be needed to track them down. And we need to remind ourselves that charges can be made before the Commission and the Attorney General without any foundation and would all have to be investigated in order to determine their validity. This would cost untold amounts and seriously interfere with the orderly enforcement of the present laws of the country.

The various other provisions of these bills—such as the authority of the Attorney General to seek preventive relief in the courts in so-called civil rights cases—are so complicated that no one can gage them with intelligence. When we get into the ridiculous possibility that the Attorney General can haul someone in for being "about to attempt to threat" or "about to attempt to conspire to threat" and other charges as have been proposed from time to time, it is even taxing the imagination to foresee what the problems would be.

I could go on and on in citing the dangers in these bills, but I will not take your time I do believe it is incumbent upon me to voice my convictions because I firmly and definitely believe that if this program is passed, and God forbid, it will mean the beginning of the end for the kind of democracy we know today. Already too many of the freedoms of our people are in jeopardy, but this legislation would accelerate this loss of freedom to such an extent that it defies the imagination. This is the kind of steps that were taken in other totalitarian countries to usurp the freedoms of the people This was done in Nazi Germany and Fascist Italy within our memory to curb the rights of the people and once these rights were cast aside, tyranny moved in

I don't want this to happen in America. I don't believe we can afford to tamper with the fundamental concepts of our Founding Fathers without eventually undermining the institution of government which they created. We have too long witnessed the grasping attempts of a central government to take over the powers of the States and the people. In my opinion, this program would be a mammoth step in the direction of total disregard for the wishes of our people as a whole. It would open up possibilities for such power to be used by the party in power to jeopardize the rights and privileges of those outside the government hierarchy. We cannot afford this. We cannot sacrifice the basic freedoms we enjoy in order to satisfy the cravings for political advantage Political expediency is not the goal to the achievement of civil rights for our people. These

will be achieved only when there is a climate of good will among all our people. We cannot achieve this when there is suspicion and distrust, fear and consternation, or lack of faith in the government.

Mr. Chairman, I call on those members of this committee who love liberty, who love this country, who cherish the freedom of the individual, who despise tyranny, who are willing to put the welfare of this country above political expediency to carefully consider these expressions, and those of others who will be heard, before we take a fatal step toward misdirecting our intentions.

The CHAIRMAN. The committee will now adjourn until 2 o'clock.

(Thereupon, at 12:30 p. m., a recess was taken until 2 p. m. the same day.)

AFTER RECESS

(The subcommittee reconvened at 2 p. m., Hon. Emanuel Celler (chairman) presiding.)

The CHAIRMAN. The record will announce the presence of our distinguished colleague, Representative Noah Mason, who comes from the great State of Illinois, and who is one that we always like to hear. Mr. Mason?

STATEMENT OF HON. NOAH M. MASON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. MASON. Mr. Chairman and members of the committee, in discussing the explosive subject of civil rights, I approach it without bias, discussing it both impartially and impersonally—if that is possible—ignoring the controversial segregation issue almost entirely, placing the emphasis upon God-given human rights and States rights and the tendency of our leaders to sacrifice those rights in order to establish by law the mirage of civil rights.

We have all heard the old saying, "The cure can be worse than the disease." In connection with the proposed civil rights legislation, that saying may well apply. We might exchange States rights and our God-given human rights for a civil rights program and be much worse off after the exchange. Let us not exchange the real blessings we now enjoy for the fancied or fictitious blessings that may be a part of the mirage known as civil rights.

Habits, customs, obligations, are much more effective than any civil rights program implemented by Federal laws. Laws are not particularly efficient. Custom is much more effective than any law because it polices itself. A law has little chance of being enforced if it does not have the approval and support of the majority of the people affected.

Prohibition was once the "law of the land"; it was a part of our written Constitution. However, because it did not reflect the conscience of the majority of our people it was not enforceable from a practical standpoint and it had to be repealed.

Edmund Burke once said, "I know of no way to bring an indictment against a whole people." Of course, that statement applies in a democracy such as ours. It does not apply under a despot; it does not apply in Russia.

Any attempt to enforce a Federal law—or a so-called Supreme Court decision—upon 48 States that have different conditions, different customs, different social standards, and different personal consciences is simply an effort to indict, to arraign, to try a whole nation, a whole section, or a whole State.

It just cannot be done in a democracy; it can only be done under a dictator. Is that what the civil rights program proposes to do? Must we lose our personal freedom? Must we surrender our precious guaranteed States rights in order to establish a program of civil rights? These are questions that bother me. They worry me. Is the cure not much worse than the disease?

Laws reflect reform; they never induce reform. Laws that violate or go contrary to the mores of a community never bring about social peace and harmony. Our times call for patience, for moderation, for gradual evolution—not revolution by Federal law or by Supreme Court fiat.

Can the explosive Israeli-Arab controversy be settled properly and permanently by force, by law, by U. N. fiat? Can segregation advocates and integration advocates be brought into harmony by force, by court fiat, by law? These are parallel controversies—one as explosive as the other.

Today the 85th Congress, under President Eisenhower, is facing the same civil rights proposal that the 81st Congress faced under President Truman. In 1948 President Truman gave the following as his civil rights objectives:

1. We believe that all men are created equal under law and that they have the right to equal justice under law.
2. We believe that all men have the right to freedom of thought and of expression and the right to worship as they please.
3. We believe that all men are entitled to equal opportunities for jobs, for homes, for good health, and for education.
4. We believe that all men should have a voice in their government, and that government should protect, not usurp, the rights of the people.

Mr. Truman further states:

> These are the basic civil rights which are the source and the support of our democracy.

I say these are all worthy objectives. No decent, law-abiding citizen would question these objectives nor oppose them. But President Truman's methods for bringing about these objectives were questioned. His methods were opposed.

Now, President Eisenhower wants the 85th Congress to do through legislation almost exactly what President Truman wanted the 81st Congress to do; namely:

1. Establish a permanent Commission on Civil Rights, a Joint Congressional Committee on Civil Rights, and a Civil Rights Division in the Department of Justice.
2. Strengthen existing civil rights statutes.
3. Provide Federal protection against lynching.
4. Protect more adequately the right to vote.
5. Establish a Fair Employment Practices Commission to prevent unfair discrimination in employment.
6. Prohibit discrimination in interstate transportation facilities.

The CHAIRMAN. I will say to the gentleman that I believe he is in error there, that President Eisenhower did not ask for all those items.

Mr. MASON. As I understand it, Mr. Chairman, the President's program is about the same. There are some differences, perhaps, from the Truman program, and some differences, perhaps, as to what

is covered in your bill, but essentially I would say they are about the same.

Mr. MILLER. May I remind the gentleman that the Attorney General has already appeared before the committee and stated the administration's position on this matter of civil rights, and in his testimony, and also in the bill which was introduced at the recommendation of the Attorney General, they do not establish a permanent Commission on Civil Rights.

They do not want an antilynching bill. They do not want a Fair Employment Practices Commission, nor do they want any legislation in regard to interstate commerce with reference to discrimination.

Mr. MASON. Then in discussing this, I shall be discussing what the Celler bill proposes and what President Truman proposed.

Mr. MILLER. Yes. H. R. 1151 is the administration bill.

Mr. MASON. I see. I stand corrected, Mr. Chairman.

The CHAIRMAN. It is awfully hard to correct you because you are so uniformly right.

Mr. MASON. That is all right, Mr. Chairman. I want to state the facts as they are.

Only one of these six methods for establishing civil rights—"Prohibit discrimination in interstate transportation facilities"—comes within the jurisdiction of the Federal Government as outlined in the Constitution. The other five are all State functions, State responsibilities, and State obligations. They come within the police powers of the various States, and were definitely left to the States by the Constitution.

Why, then, should the Federal Government violate States rights by assuming functions that belong to the States? Would that not be going contrary to the supreme law of the land—the Constitution?

When the Federal Constitution was before the States for ratification, four of the States demanded guaranties that "freedom of the press, of speech, and of religion" would be a part of the Constitution. Nine of the States insisted that "States rights" be guaranteed. And so the 10th amendment was made a part of the Bill of Rights so that the Federal Government would be restrained from ever interfering with human liberty and human dignity.

The first nine amendments in the Bill of Rights deal with the rights of the people, God-given rights; the 10th amendment deals with the powers of the Federal Government. It limits those powers. It says to the President, to the Supreme Court, and to the Congress: "You may do what the Constitution specifically says you may do, but you may do no more. Those powers that are not given you are either reserved to the States or they belong to the people." That is what the 10th amendment spells out, and we must not forget it in our desire to establish civil rights.

In 1952, speaking at Des Moines as a candidate for the Presidency, General Eisenhower said:

The Federal Government did not create the States of this Republic. The States created the Federal Government. The creation should not supersede the creator. For if the States lose their meaning, our entire system of government loses its meaning and the next step is the rise of the centralized national state in which the seeds of autocracy can take root and grow.

At the conference of governors in Seattle early in 1953, President Eisenhower declared:

> I am here because of my indestructible conviction that unless we preserve in this country the place of State government with the power of authority, the responsibilities, and the revenues necessary to discharge those responsibilities, then we are not going to have America as we have known it. We will have some other form of government.

In the words of President Eisenhower himself, therefore, the destruction of constitutional States rights will sow the "seeds of autocracy," bring about "some other form of government" in America, and force us to establish a "dictatorship."

Yet, in the face of those words the President proceeded to ask Congress to create a new Cabinet office to supervise the Nation's health, education, and welfare. Under the tenth article of the Bill of Rights protection of the people's health, education, and welfare is reserved to the respective States of the Union. The President's actions, therefore, do not coincide with his words.

Not only that, but the President's own Commission on Intergovernmental Relations, after an exhaustive study by a carefully selected group of highway experts, recommended a complete set of practical plans for the adequate expansion of the Nation's highway systems under State responsibility with little or no financial aid from the Federal Government. Here was a practical official proposal for the restoration of States rights that the President ignored entirely when he submitted to the Congress his own system of highway expansion under Federal control and supervision.

And if that is not enough to convince anyone that the President's actions do not conform to his words, take the report of the Commission on Intergovernmental Relations on Federal Aid for Schools. A 15-man study committee on education submitted a 200-page report on that subject which stated definitely:

> We have been unable to find a State that cannot afford to make more money available to its schools or that is economically unable to support an adequate school system.

Yet, the Secretary of the new Cabinet post, Mrs. Hobby—who was also a member of the Commission on Intergovernmental Relations—and President Eisenhower both ignored that report and presented to the 84th Congress a Federal school aid program that would cost $2 billion. The question arises: Does the President—in the face of his own words—continue to ignore the recommendations of his own Commission on Intergovernmental Relations? I say his recommendations for Federal school aid are exactly opposite from the recommendation of his own Commission on Intergovernmental Relations.

Mr. Chairman, I know these three examples—

1. A Cabinet officer to look after the health, education, and welfare of the people;
2. A Federal system of highway construction; and
3. Federal aid for public schools;

are not examples of civil rights. But they are definitely examples of the violation of States rights. And, as such, have a direct bearing and relationship to civil rights, because the proposed civil-rights program is also a direct violation of States rights as guaranteed by the Constitution.

I had the good fortune to serve on the Commission on Intergovernmental Relations under the Chairmanship of Dean Manion, one of the greatest constitutional lawyers in America. The one great principle he emphasized was that the purpose of the American Government is to preserve and protect our God-given rights; that the American Government is a mechanism for the protection of human rights; that civil rights are rights provided by law that definitely come under the jurisdiction of the States, not under the jurisdiction of the Federal Government; that whenever the Federal Government undertakes to establish or set up a program of civil rights it must, of necessity, encroach upon States rights and upon God-given human rights.

Can we afford to do that? Dare we violate the Constitution by ignoring the following clear and concise language?

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

That is the end of my testimony, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Mason.

Our next witness is Governor Coleman, but, Governor, is it all right if Congressman Rivers makes a brief statement?

Governor COLEMAN. Indeed so; yes, sir.

The CHAIRMAN. We now have with us the distinguished Representative from South Carolina, Mendel Rivers. We will be glad to hear you.

You understand we had scheduled Governor Coleman at this time and he yielded to you on the schedule.

STATEMENT OF HON. L. MENDEL RIVERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. RIVERS. Mr. Chairman, I am complimented that you would not only hear me, but to be heard out of turn. I am indeed complimented.

I express to you and your colleagues, Mr. Chairman, my deep appreciation for the privilege of appearing here today. I recognize more fully than you that this is a gesture because nothing that I could say or do would prevent your passing this bill from your great committee.

You are treating me like the old English lawyer said, "Give him a fair trial and hang him." However, I come here not to offend you, but just to call to your attention 1 or 2 things which you may not like, but I am going to call them to your attention anyway.

I know that I will disturb the even surface of your mood, Mr. Chairman, more lightly than the tilted swallow's wing disturbs the limpid, glassy solitude of some clear pool, and I know when I am gone it will be just the same, nothing to remind you that I ever came.

It is useless for me to discuss the provisions of this bill, all of which I have committed to memory, verbatim, punctuatum literatum and "Jump-at-um." This thing has more provisions than a show dog can jump over, so it is no use for me to discuss them.

I doubt that, if ever partially administered, however, this bill would ever affect my State of South Carolina. However, under the proposal of this bill, any political minded President—and that may come in the future, you know—could destroy any single people or any single State.

I have only the right, Mr. Chairman, to speak for my part of the world to see whether or not you need this thing. I am talking about the people who are committed to my care in representing them in the Halls of the Congress. My people are not intolerant. Neither white nor black has to pay any poll tax to vote. Elections are honest. Anyone can register, and most people do.

Once, Mr. Chairman, I had a Negro for an opponent for election to Congress. Of the 20,000 to 30,000 registered votes, he got scarcely 7,000. He did not protest. He did not cry dishonesty. He never alleged that his right to speak was not free. Being well financed by the NAACP, he spoke every day on the radio, every day. Never once was he threatened with any kind of intimidation or violence.

Mr. Chairman, in my comunity we boast of our Jewish population of over 2,000 families, which population is over 200 years old. They came here before the lights were turned on. The speaker of the house of representatives of South Carolina is a Jew. He has held that office longer than anybody in the history of South Carolina, and he holds it right now.

I had the great honor of serving with him over a quarter of a century ago. Ask him what we thinks of this monstrosity. Mr. Chairman, I cite these things to you to point out that this endless, relentless, and ceaseless demand for this type of legislation based on unfounded conditions in my section of the world is a contemptible, malicious, and dastardly lie.

The CHAIRMAN. That is awfully strong language. Do you want to keep that language in the record?

Mr. RIVERS. You can amend it to your satisfaction.

Anybody who possesses the desire or ability to make a journey to my homeland would find that we are the freest people in the world, and the happiest people in the world, despite the northern press, TV, and radio, and this thing pointed at our people.

My section in America is the only one safe from the pressure groups who demand your obedience to deliver this monstrosity to them, Mr. Chairman.

You are a great lawyer, and one for whom I have the loftiest esteem. You are a great man. You have a Jewish name and I have one, too. I believe mine is as good as yours is.

The CHAIRMAN. I think your name is exactly like mine. The word Mendel is exactly the meaning of Emanuel.

Mr. RIVERS. That is right. God be with us; in some places, God help us

You know the affection I hold for you, Mr. Chairman. You know, Mr. Chairman, in your great heart that this civil rights bill is not only not need, but it violates every guaranty the Constitution gives us. Why destroy the instrument that has made all minority groups, including yours and mine and the rest of us, free and happy and great in this great country?

With pardonable pride, Mr. Chairman, on my own side, and my wife's side, we trace people who wrote this instrument. I am tied to it not because of pride or affinity, but consanguinity.

Mr. Chairman, I would to God that certain people in this country were as free as I am. I would to God that you could devote your great talents to something which could make a greater contribution than

this thing which we are losing time on. You should be made of sterner stuff, Mr. Chairman.

Think of the things that need to be done in this great world and this great country. Why, your own people in Israel today stand as aggressors before the U. N. which made the great State of Israel. Think of what in your own heart you would like to say about the Puerto Ricans who are overrunning New York and who threaten your seat in Congress?

We ought to be doing something about them coming to this country. You know their favorite pastime is shooting up the Congress. Yet you leave your own doorstep and point to the fanciful, untrue, and amazing conditions in other sections of the world, notably the one from which I come.

Are we to forever follow the will-o'-the-wisp demands of the pressure groups in order to stay in Congress? You will never please them, Mr. Chairman, if you live a million years. You remember old Diocletian. He promised the Romans everything. Now he and his memory remain in the forgotten past.

I never heard you and many of your colleagues get up on the floor and deplore the gangsterism, the hoodlumism and the intolerance in your own cities. Yet you point to ours. Follow the advice of Senator Lehman:

"Clean your own Augean stables." Remember the teaching in your own Holy Book and mine. "Remove the mote from your own eye." When I say "you" I am talking about the elective "you," Mr. Chairman. I don't point these things to you individually. When I say "you" I am talking about those who promote such a thing as "you."

I do not indict you and anything I say here that reflects on you is wrong and I take that out of the record if it is included in there.

You remember old Edmund Burke. He said, "You cannot indict a whole people." You just cannot do it. This strange and appalling thing that we have here today makes every person in America a potential or a quasi-criminal. It will make the FBI the greatest secret police the world has ever known and it will make Edgar Hoover, if he is the same Edgar Hoover I knew when I used to be in the Department of Justice, resign and quit in protest, because it will destroy the FBI, and all the good will and all the good feeling that the FBI now enjoys with local people and law-enforcement officers will vanish as the snow falls on the river, or the rainbow's lovely form—vanishing amidst a storm.

You sign not your own death warrant, but that of the FBI when you deliver this illegitimate child of cosmic parentage. We hear of thought control and birth control, but in this thing you give us look control. If he looks like he is going to commit an act, take his property. If this thing passes, Mr. Chairman, this country will be more drenched with blood somewhere or sometime than ever a mutinied ship, and I make that prophesy now.

Mr. Chairman, I challenge you to set up a subcommittee, just like you have here, the membership of whom will none come from south of the Mason-Dixon line, just like this committee that is going to gut us, to study the legality of the 14th amendment, the constitutionality of the 14th amendment, which we honor in my section of the country, and which was crammed down our throat illegally.

I challenge you to set up such a subcommittee and you will find that even under that amendment you have a bill here that will take property without due process of law.

Mr. Chairman, your own rights end with this proposal. I come here today as one crying in the wilderness, trying to save you from yourself.

Thank you, Mr. Chairman.

The CHAIRMAN. We will now hear the distinguished Governor from Mississippi, but I believe our eminent colleague, Congressman Colmer of Mississippi, wants to say a few words first. Mr. Colmer.

STATEMENT OF HON. WILLIAM M. COLMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. COLMER. Mr. Chairman and members of the committee, I have no statement at this time to make on this matter. As the Chair is aware, we have the honor of having our distinguished Governor and the attorney general of the great State of Mississippi here, and I would like to ask the privilege for Congressman Abernethy, who is a boyhood friend and also whose constituent the distinguished Governor is, to have the opportunity to present him.

The CHAIRMAN. Certainly. We will be very happy to have the gentleman from Mississippi, Mr. Abernethy, present the Governor. Thank you very much, Mr. Colmer.

STATEMENT OF HON. THOMAS G. ABERNETHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. ABERNETHY. Mr. Chairman and members of the committee, I deem it a great honor to present to you and your distinguished subcommittee one of the distinguished young men of this country, the Governor of my State, who is my constituent. He and I were born and reared in adjoining counties, just a few miles from one another.

The Governor was born of very humble parentage in a rather rural section of our State. He spent his youth as a farm boy, entered the University of Mississippi with only a few cents in his pocket, and paid his tuition with a load of potatoes which he dug from his own soil.

He came to this Hill a few years ago as a secretary and finished his education here in one of the law schools of this great city while serving as a secretary to a Member of this Congress. He returned to his home State while still a young man in the twenties and was elected district attorney of his district. He served two terms with a very distinguished record, and then was elevated by the people of the district to the office of circuit judge. He was reelected to that office without opposition, and later was appointed to the supreme court of the State. He is still a very young man.

Subsequently, he was appointed to fill out an unexpired term as attorney general of our State. He was thereafter elected in his own right to a full term. The year before last he became a candidate for governor, and while it is rather unusual for a man to be elected Governor of Mississippi in his first race, he surprised all of the political prophets and was overwhelmingly elected.

He has made a good Governor. He is a temperate man. He is well known throughout the country, and he is a good Democrat, Mr.

Chairman, which I am sure meets with your approval, as well as our Democratic colleagues. He is a very loyal Democrat.

I think the chairman knows this man. The others may not. However, I will not take further time of the committee to tell you more about him. I think I have told you enough for you to know that he is no ordinary citizen. It is my great pleasure and my privilege to present to you, Mr. Chairman, and you, the distinguished members of this subcommittee, Governor James P. Coleman of Mississippi.

The CHAIRMAN. Thank you very much, Mr. Abernethy. I know that he has a good Congressman, and you have a good Governor.

Mr. ABERNETHY. Thank you.

The CHAIRMAN. Governor, we will be very glad to hear you.

STATEMENT OF HON. JAMES P. COLEMAN, GOVERNOR OF THE STATE OF MISSISSIPPI

Governor COLEMAN. Mr. Chairman and gentlemen of the committee, I think it would be difficult at best to speak to such a distinguished assemblage on such a controversial question and it is made more difficult for me personally by this glowing and charitable introduction given me by my Congressman, which, frankly, I did not expect and which, honestly, I do not altogether deserve, but I am pleased to appear before you in your high places of great responsibility with that kind of recommendation.

Twenty years ago, as Congressman Abernethy said, I was a congressional secretary here on Capitol Hill. I worked at 317 House Office Building, which is just a few doors from where we are seated now. The present honorable chairman of the Judiciary Committee of the House of Representatives, the gentleman from New York, had already been in Congress, I believe, for about 14 years at that time.

I saw him nearly every day, but needless to say I never dreamed it would become my duty in the good year 1957 to serve as Governor of my State and in that capacity to appear before this honorable committee giving my testimony about proposals of such critical significance as are now receiving your consideration, nor did I dream that last summer in the city of Chicago I would work with your chairman day and night for 2 hectic weeks on the platform committee and the subcommitee of 15.

I shall always be glad I had that experience. I can say with not the slightest trace of flattery that I found the chairman to be fair without being a weakling, to be kind without being subservient, and while we sometimes disagreed, as he knows, he was a gentleman all the time. I know the remaining members of this committee are of the same kind, or else their constituents would not send them here.

The 4 years I worked on this Hill taught me to respect the Members of the Congress of the United States. Therefore, I consider it to be an honor to appear here and it is with gratitude and confidence that I respectfully make any argument, which I hope will be fair and clear.

The CHAIRMAN. May I say, Governor—you made a comment of our working together in Chicago—we were both members of the drafting committee of the committee on platform and resolutions, and we did, indeed, labor very arduously for 2 weeks on that plat-

form, and I was very happy in my associations with you on that occasion.

I always found you forthright and deliberate, and while we did not always agree, you were never disagreeable and you were always a gentleman.

Governor COLEMAN. Thank you very much, sir.

I would like to make it clear, if, indeed, such clarification is necessary, that we are not here today, the attorney general and myself as meddlers, or for the purpose of making high-handed demands of the Congress. Neither do we intend to use this as an opportunity to make any intemperate speeches.

We are here at the request of our distinguished Mississippi delegation in the House of Representatives, headed by its highly esteemed dean, Representative Colmer, who spoke first a moment ago, and I repeat that I am personally a constituent and warm friend of Congressman Abernethy of the First District of Mississippi, and I express my appreciation to all six of these gentlemen, our Congressmen from the State of Mississippi, for their courtesies and their valuable assistance since we have been here in Washington.

Also, if I may take just a moment for that, Mr. Chairman, there are some special reasons why we feel no objections to appearing before a committee headed by a Representative from New York. It is overlooked in these days and times that there was a sad day in the history of the South and of Mississippi when the best friends we had were to be found in New York State.

Many people have forgotten how it was when a man was kept in chains, 16 feet below the waterline at Fortress Monroe, for 2 years on a charge for which he was never brought to trial—Jefferson Davis. It was Cornelius Vanderbilt and Horace Greeley from New York who made his bail and removed him from that place of imprisonment.

A lot of folks have forgotten that the first Confederate soldier to be appointed to the United States Supreme Court, after that unhappy war, was L. Q. C. Lamar of Mississippi, who was appointed by a former Governor from New York, then the President of the United States, Grover Cleveland, and I will be thrilled as long as I live to recall my grandparents speaking of how they fired the anvils in my little hometown of Ackerman, Miss., when Grover Cleveland from New York became our President; and I remember 1928, when people were divided and there was much hostility of a kind in the South touching just what we are talking about here today, that I saw my father, I being at the time a 14-year-old boy, take his horse loose and ride through the rain 4 miles to vote for a man from New York State for President of the United States. And when that election was over that same man from New York selected Mississippi in which to spend his vacation.

So I do not come, as possibly some might, with any feeling of inferiority about my beloved State just because in recent years it has been the object of much ridicule and many misstatements—indeed, sometimes I think I would be justified in saying falsehoods. Today Mississippi still stands before the whole Nation as needing friends.

No one State is strong enough or large enough to be able to get along in this great country of ours without friends, and I want to take just 1 minute, if I may, to tell you about what my State is doing. As the distinguished gentleman from South Carolina, where my ancestors

lived 150 years, said a moment ago, "This is not by way of apology, but just by way of illustration and by way of facts."

In 1890, 66 years ago, and I daresay there are people in this room who can personally remember that year, 25 years before I was born, after we had lost that unhappy war, we Mississippians did not have a thing in the world left to us but the earth, Mr. Chairman, and that scorched. The flower of manhood was killed, and many other things happened, not necessary now to elaborate upon. In 1890, there was not but $600,000 in cash in all the banks in the whole State of Mississippi, whereas today we have $120 million in 1 bank alone in the city of Jackson.

The CHAIRMAN. You must have a good Governor down there.

Governor COLEMAN. In addition to that, in 1890 the total resources of all those banks were $7 million. Yes; 60 percent of all the Negroes in Mississippi, in 1890, 10 years of age and upward, were unable to read and write, and 12 percent of whites above 10 years of age were in the same condition. By 1950 that figure had been reduced to such a small minimum that they did not even bother to take the statistics on it.

In 1890 they had only 232 students at the University of Mississippi, just 232 in the whole State. The State was able to spend $32,000 to maintain them. The population of the city of Jackson was 5,920 people, compared to 150,000 today.

We have come a long way since those days. We have had a hard way to go. Although I am 43 years of age, and therefore comparatively a young man, I received the first 10 grades of my education in a 3-room wooden building that my father and his neighbors built free of charge because the county had no money to build a schoolhouse, and that is in my own personal experience.

In 1890 a white schoolteacher in Mississippi got the pay of $124 a year, not a month. A Negro schoolteacher got $80 a year, and as late as 1940, climbing as we were, $710 was the average annual salary of a white teacher and $224 for the poor Negro teachers who were doing their best to educate the members of their race. Now they get an average of $2,600 a year, and there is no distinction made between the races as to the salaries paid, none whatsoever.

Yes, we appropriated $17 million in Mississippi for education in 1944, and $80 million in 1956, during my first year as Governor, and there was not a single vote cast in either house against the appropriation of that money, although they knew it was to be spent equally alike, on all the children, regardless of where they lived in Mississippi and regardless of race, color, or what have you.

I mention that to come down to some of these specific considerations that are before this committee and which will be, of course, before the Congress. As I understand it, this overall legislation proposes, first, that there be a civil-rights division set up in the Department of Justice.

Well, if it is necessary at this late date to set up a Civil Rights Division in the Department of Justice, it looks to me that that, within itself, is an official confession of futility. If the United States attorneys and their assistants, if the FBI in the field, and all their mighty organization. and if all the regular and assistant Attorneys General have heretofore failed on this subject, what good can be accomplished by the setting up of another division?

Nothing but more bureaucracy; more people on the payroll (when economy is the greatest need of the Government); and there will be

more people to array race against race in our State, when what we need is peace instead of being arrayed against each other.

More seriously, this legislation is aimed, as everybody knows, at a patriotic section of this country, the South, which needs sympathetic aid in the solution of its problems instead of harassment from Washington or from any other place.

Next, it is said that this legislation is intended and designed to make more available the right of franchise. Well, the United States Government cannot prescribe the qualifications for voting, as I understand it. That is still left to the respective States except for the provisions of the 15th amendment, which refers only to the question of color and applies to no other item except color. There is no intimidation in Mississippi as to voting. One of the distinguished Assistant Attorneys General of the United States back in October announced in the press to the whole United States, and to the world, that they were getting ready to take care of Mississippi, that they knew who had been intimidating the voters, and that they were going to prosecute. No names were called, of course, just a blanket shotgun indictment to which our State is so often subjected; and I said immediately that if he knew who those people were who were intimidating voters it was his duty as Assistant Attorney General to name them and to bring them before the courts and indict them and try them, but he has not until this date named one single, solitary soul, because they were not there to name.

As has already been pointed out by one other witness, that intimidation is often talked about, but it is a figment of the imagination. It is a product of fantasy. It does not exist.

So far as that is concerned, in 1900 the Negroes outnumbered the white people in Mississippi by about a quarter of a million. Today the white people outnumber the Negroes in Mississippi by at least a quarter of a million and that old talk that if they got the franchise they could take over the State is a thing of the past.

The next proposal is that there be a Commission on Civil Rights. That reminds we southerners, of course, of the rule we had to suffer for 10 years after that war when there was no Marshall plan for us, when finally the Supreme Court came to our rescue by saying that this is an indestructible union of indestructible States, when those who were in the position best to exercise it had arbitrarily been denied their franchise, when people were haled up in the State of Mississippi and tried by so-called military commissions without the benefit of trial by jury and sent to jail or to the Dry Tortugas for however long they wished to send them there.

The recollection of those things is still vivid in the minds of people and we would be fooling ourselves if we pretended to claim that the memory will ever die. That is a page in history that cannot be eradicated and will not be forgotten. When you talk about a commission with people sitting in Washington with the power to subpena you from the banks of the Big Black River or from the banks of Yockanookany Creek to come up to Washington and give your testimony and there be subjected to possible prosecution for perjury and all that sort of thing, away from the usual circle of your friends and acquaintances, then those who try to help the Negro race, as I have tried to do, are confronted with a burden they cannot carry and one they cannot explain, and there is no way of minimizing that fact.

If we are really and truly interested in the welfare of the Negro we are not going to put them behind the eight ball by enacting that kind of legislation which will make everybody his enemy, and everybody suspicious of him, and everybody wondering if he is informing the Civil Rights Commission in Washington, D. C. whether or not there is any foundation for the information.

No; this would be a continuing and continuous source of agitation and uproar, tumult, and domestic discord, and it would be the chief fomenter of ill will between the races instead of doing good where good is so badly needed to be done.

Now, on the subject of antilynching, I heard the distinguished gentleman from Illinois this morning, a Member of Congress with whom I also served on that platform committee, say that he was not worried as much any more about lynching as he once was, and I think he was justified in making that statement.

It is practically a nonexistent crime. I became district attorney in 1940, and then I served in these other places which the honorable Congressman referred to. I cannot recall a single solitary lynching in my State, anywhere, since 1940.

Yes, there were crimes which were called lynchings, but, coming down to what constitutes an actual lynching, there has not been one since 1940, and in my judicial district where I was district attorney, there had not even been one threatened or thought about, so that we might as well legislate against racing with horse-drawn buggies on the Pennsylvania Turnpike or against dueling with broadswords on Boston Common, as to talk about passing an antilynching bill.

If it is nonexistent and if we do not propose to lynch anybody, which we do not, why should we care about it being passed and enacted into law? It would not mean anything. Well, it would be an unnecessary invasion of the rights of the States to convict and punish for the crime of murder.

More than that, gentlemen of the committee, it would be what some folks desire it to be, I think a very small number. It would be an official brand or stigma against a certain section of the country. That is what would be implied from it.

In other words, it would be saying, "While you have been inactive for many years, we hereby brand you in the archives of the Nation and before the eyes of the world as a bunch of unreformed, congenital lynchers who are only looking for another opportunity to start it again."

You can rest assured that the whole South would greatly appreciate having such a brand as that gratutiously placed upon them, and such an act would no doubt greatly improve their love for their Government, and it would certainly move them to be friendlier and nicer and better and more considerate and humane with their fellow citizens of the Negro race. It defeats its own end on the very face of it.

Now, in that regard for just a moment or two, and I shall be but a few minutes longer, when I was inaugurated as Governor of Mississippi on the 17th day of January 1956 and Congressman Abernethy very kindly put that inaugural address in the Congressional Record for January 24, 1956, where it is a permanent record, I said this:

I want to tell you that during the next 4 years the full weight of the government will unfailingly be used to the end that Mississippi will be a State of law

and not of violence I want to remind you that for over 90 years the white and the Negro people of Mississippi have lived side by side in peace and harmony.

I would like for our friends outside Mississippi to know that the great overwhelming majority of the white people of Mississippi are not now guilty and never intend to be guilty of any murder, violence, or any other wrongdoing toward anyone.

History shows that the first white man ever to be legally hanged in our State was executed for the murder of a Negro slave. I repeat that, while we, the people of Mississippi, are determined as a matter of right and justice that the necessary rules of society shall be maintained, we do not any more approve of violence and lawlessness than you do.

And then I said:

Despite all the propaganda which has been fired at us, the country can be assured that the white people of Mississippi are not a race of Negro killers. Official statistics for the State of Mississippi for 1954 show—

and I would like to have this particularly noted if possible—

that in that year, the last for which we have figures available—

although I now have 1955—

eight white people were killed by Negroes and only 6 Negroes were killed by whites, while 182 Negroes were killed by members of their own race.

In other words, there were 30 times as many Negroes killed in Mississippi by members of their own race as by members of the white race. Now, in 1955 we had four Negroes killed by whites. We had 2 whites killed by Negroes, and we had 159 Negroes killed by members of their own race, which is a ratio of 40 to 1.

If I were so unkind to them, which I shall never be, as others have been to us, I would suggest that possibly this committee, or at least this legislation, is taken up at the wrong end of the line; that instead of trying to remedy a situation where in 2 years 10 of one color have been killed by another, which was returned by 10 of another color being killed by the other, and where almost 350 were killed by their own color, that legislation should be designed to correct that, but I do not take that approach.

You can search my record from the day I was sworn in as district attorney until the day I was elected Governor by all the people of Mississippi, and until this hour, and you will not find where I have ever said an unkind word about the Negro race. You will not find where I have ever condemned them for something a few of their number did.

I do not think the white people should be condemned because a few of their number have gone out and violated the law against the wishes and the will of the great overwhelming majority of the people. No. I said in that inaugural address:

The time has come for us to invoke the great principle enunciated by Thomas Jefferson when he said, "Never let us do wrong because our opponents did so. Let us rather by doing right show them what they ought to have done and establish as a rule the dictates of reason and conscience rather than of angry passions."

And what has been the response of the people of Mississippi to that appeal? In an entire year, only 1 instance, only 1, of any personal violence by a white citizen toward a Negro citizen, and the perpetrators of that offense are in jail today, without bail, waiting on trial. Yet, in 1 city in our State, within the last 3 weeks or a month, there have been 5 attacks in 1 town by Negroes on white women. Have we gone around condemning the whole Negro race about that?

The Negroes themselves in that town made up a reward to offer for the apprehension and the conviction of the violators. That is the way we are trying to do business in Mississippi today, we who are responsible for the State government, and for the tranquillity of the State and for justice and fairness to all citizens of the State, regardless of what race they may hail from.

Yes, if that had happened in Mississippi 25 years ago it would be a different story to tell to this committee today, but what I am hoping is that, at least in the eyes of the country, and certainly in the eyes of the Congress, we can get credit for this great progress we have made and, furthermore, I hope that that progress will not be set back 25 years or more by the enactment of unnecessary legislation which will do harm instead of doing good.

I have only one more point, and I am through. By far the most serious of all these proposals is that we now abandon the time-proven judicial procedure of all past years and embark upon a new system, government of the judiciary and government by injunction.

We know from long experience that the best and only really workable form of democratic government is our present system, wherein it is the function of the legislative department to make the laws and prescribe the penalties for criminal violations thereof.

The executive department sees that the laws are faithfully executed, and the judiciary holds impartial sway over legal contests between the Government and its citizens, as well as between the citizens, themselves.

Heretofore, for any act denounced as a crime, the judge could impose only that sentence which the legislative department had authorized, and no other. If the legislative department in the State or in the United States failed to prescribe a penalty, the court was without power to inflict a penalty.

Now it is proposed, straight into the teeth of this time-honored rule, that the judge shall, without trial by jury, determine guilt and then he shall impose just such sentence as he individually sees fit to impose with no limitations whatever prescribed by the legislative department.

I remind my friends that the right of trial by jury is considered in most places a valuable civil right. It is not one which depends upon the turn of judicial decision. It is specifically written into the face of the Constitution itself, and it did not get there by accidental means.

I must further remind those who support this legislation that its enactment would be one more abdication by the Congress of its legislative rights. If Congress is to abdicate the right to prescribe penalties its citizens must suffer for violation of the law, then Congress—as well as the States—has abandoned one of its own rights, and if it is not to preserve them, there is no place under the shining sun of heaven whereby it may be done.

What is proposed here is that the Congress enact this legislation and then go before the country and tell our people that, in a frenzy to do something about a few rare violations of the law, they were willing to do irreparable violence to the civil right of trial by jury and they furthermore were willing to abdicate their time-honored right to fix the penalty for the commission of a Federal offense.

I respectfully submit as a citizen of the United States that here is a fine time for the Congress seriously to consider the evils from which it is requested to fly as contrasted to the fantastic evils it may thus

incur. I respectfully submit as a matter of sound constitutional principle that the denial of the right of trial by jury and the submission of the citizenship to the judiciary, without any standard for the government of that judiciary, if done in certain other countries of the earth would be denounced here as an act of totalitarianism, and I believe it would be, but that is what is proposed and I make the remark as one who has been a judge and as one who believes that the highest office any man can hold, in fact, is to be a judge.

I make the remark as one who, although he has disagreed with the Supreme Court of the United States, and pretty emphatically so, has never said one word in public to challenge their motives in what they have done. I know that the injunctive power is necessary. Certainly the court has to have that. The court has to be able to enforce its own writs and its own processes, but that injunctive power is subject to the regulation of the Congress and Congress could put safeguards around that unlimited, unfettered discretion which under the existing law the judges have at this time.

Even if Congress does see fit to deny a man the right of a trial by a jury, these proposals now before the committee would, in effect, in my judgment, revise the United States district courts so as to make them for all practical purposes not district courts of the United States, but special civil rights courts

With the courts already behind in their work in many places as much as 30 months, the Members of the Congress are constantly beset by demands to create additional judgeships in order that we may preserve another very important civil right, to wit, the right of a speedy trial. Yet, even those who are unfamiliar with court procedure should be able to see that this proposal of shotgun injunctions against the whole world whether named or not named, while absolutely violating all rules of due process as heretofore enunciated by the Supreme Court of the United States, would utterly swamp the courts, or could do it, and seriously hamper their usefulness. It certainly could divert the courts from their true and most important function.

Further discussing this matter of government by injunctions, I think government by injunctions in one instance on a different matter was seriously discussed by the Senate of the United States for an awful long time. I do not know how long it will be discussed now since it is aimed only at a certain section of the country and a certain group of people, but in discussing these injunctions I want to ask the committee this question:

Can you enjoin the legislatures of the State from meeting? Is it fancied that you can mandatorily enjoin State legislatures to enact legislation and not enact other kinds of legislation? Is it supposed that the United States district courts can mandatorily enjoin the governor of a State that he must approve or veto legislation that is submitted to him?

To ask the question is to provide the answer. All the force and compulsion of the reconstruction days, including widespread disenfranchisement, when people were flat on their backs and utterly helpless and almost without friends just hardened the opposition. That is all it did.

I remember the Lodge force bill of 1890, and so do you from your history. The Negro in Mississippi voted without hindrance or inter-

ference from anybody from 1865 to 1890. When they came on the scene with the Lodge force bill they convened the convention of 1890 and, instead of conferring something upon the Negro race which it had not theretofore had, it took from them what they already had and which they had enjoyed for 25 years. That was the product of force.

And I know, as a commonsense proposition, and all I can do is tell the Congress of the United States about it—I am in no position of national authority—that to enact this kind of legislation will have the same results again, not in identically the same way, not in the same form, but the effect of these proposals will not be to help the man that supposedly it is intended to help.

Now, listen to me. We are all afraid of the United States courts. Of course we are. We must admit that. The average citizen will refuse to have anything whatever to do with the Negro for fear that to do so will get him involved with the Federal courts. He knows that possibly just to carry on a conversation with Negroes under the terms of this legislation could land him in Aberdeen, or Clarksdale, or Greenville, after being hauled before a United States district judge without the benefit of a jury trial.

So he will say: "I am a law-abiding citizen. Never was a member of my family in jail or in the penitentiary. I don't have money to hire counsel to represent me, if I am hauled before the United States district judge. The safest thing to do would be to avoid all dealings with the Negro. The safest thing for me to do is let him go someplace and thereafter have nothing to do with him, because I can't afford going to jail, being away from my wife and children because of a false report or even because of an honest misunderstanding."

Yes: it will make his lot harder instead of easier. It would cause inevitable distrust of the Government, the controversial involvement of the man who right now is the least able of all to defend himself but whose position is improving by the months. It is too great a price to pay for the negative results which will follow from this legislation.

If it is determined as a matter of absolute political expediency, if it is thought to be politically necessary to enact something to use as a "sop" to him, on the theory that he will not really know what it is all about, then I hope that you will put some safeguards in it which will prevent the occurrence of the sad things that I have considered my duty to prophesy here today.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Are there any questions?

Mr. MILLER. Yes.

Mr. ROGERS. Yes.

I was interested in your analysis of government by injunction, that you and I as lawyers know that that is not the way to do things, but we also know that the Supreme Court in 1954 handed down their decision on the so-called segregation case, and since that time they have adhered to that decision, with the result that in some jurisdictions they have gone into the Federal district court and secured injunctions.

In one instance, the Attorney General of the United States sent the FBI down to Clinton, Tenn., to investigate whether or not that injunction had been violated; and a warrant was issued for 16 people, of which none of them were parties to that suit.

Now, the point that I am trying to get at is: Here is this decision. Here is the district court of the United States empowered to issue the injunction and to enforce their decrees.

Do you think we should approach it from that standpoint, or do you think we should have legislation to answer that problem, and, if so, what legislation?

Governor COLEMAN. Well, I would say, first, that I do not know, personally, too much about the situation in Clinton, Tenn., because we in Mississippi have conscientiously followed the rule of not interfering in any other State's affairs. If we rush in to what is going on in Clinton or in Mansfield or in any other place, by the same token we can be rushed in upon. We have no trouble in Mississippi. There have been no suits, there have been no petitions, and there has been no trouble.

We have gone along with a hundred-million-dollar school-construction program without any trouble. So far as this injunctive proposition is concerned on the school situation, it would never have to be confronted in Mississippi, because, as soon as the Supreme Court handed down its decision in May 1954, the people of Mississippi amended their constitution by a vote at the ballot box to provide if any school were ever integrated it would be promptly closed, with result that, if the school were integrated, it would only pull the temple down on the heads of those who sought to integrate. If the injunction process could reach so far as to direct the legislature how to spend money and collect and levy taxes and all those things, it would be different.

I do not know that I could answer that statement offhand, on the basis that we have not considered in Mississippi that we would have to confront it so far as the schools themselves are concerned.

Mr. MILLER. Governor, first I would like to commend you for what I consider to be an excellent statement in support of your position in this matter.

Governor COLEMAN. Thank you, sir.

Mr. MILLER. I want you to know that I feel just as deeply concerning States rights as do you. However, something has bothered me in the course of these entire hearings on civil rights, both during these hearings and in years previous, and that is that, based almost always on hearsay evidence, certain allegations or accusations are made before this committee concerning discriminations which allegedly exist in the South by extremists on one side; on the other hand, those in public office or otherwise, extremists on the other side of the issue, make certain complete denials of those allegations. Yet, in the course of the entire hearings, neither side has ever made any attempt, at least as far as I have been able to discover, to bring direct evidence before the committee on the question of either discrimination in any particular situation, or concrete specific example of discrimination in the South and, therefore, has eliminated the necessity, of course, of a direct refutation by evidence. Now, yesterday we had the testimony of a Mr. Wilkins, who I believe is executive secretary of the NAACP, and he made this statement before the committee, talking about discriminations against the Negro people in the South in regard to their right to vote. He said, and I quote him now:

Not only administrative devices but economic reprisal and outright violence have been used to prevent colored people from voting. A dramatic illustration

of how the program of fear works comes from Humphreys County in Mississippi. Prior to May 1955, there were approximately 400 colored voters in this county. By May 7, 1955, the number of colored voters had been reduced to 92. On that day Rev. George W. Lee, the leader in the effort to increase the number of Negroes registered and voting, was fatally shot in Belzoni, Miss. Within a few weeks, there was only one colored person eligible to vote in Belzoni, Miss. He was Gus Courts, who once ran a grocery store in the community. On November 25, 1955, he was shot and seriously wounded while in his store, and has since left the State.

Statewide, the records show that some 22,000 of Mississippi's 497,000 Negro eligibles were registered to vote in 1954. By primary day, 1955, the number of Negroes registered had been forced down to around 8,000.

Mind you, Mr. Chairman, the eligibles numbered nearly half a million in that State, and only 8,000 were discoverable as registered voters in August 1955.

Now, Governor Coleman, would you like to comment upon that statement?

Governor COLEMAN. I greatly appreciate the opportunity to do so, and I will try not to be too lengthy in doing it. Now, one of the things circulated so widely throughout the country on this subject has been the allegations given by the present Attorney General of the United States that once upon a time a Negro in Mississippi was denied the right of registration because he did not know the number of bubbles in a cake of soap. I met that at Chicago. I meet it everywhere.

Well, I obtained a copy of the Senate hearings where that testimony was given, and the Attorney General entered an affidavit about it in the record, but he deleted all the names from it. He left off the names. So we do not know where that is supposed to have happened in Mississippi, or to whom it happened, or how it happened, or when it happened, whether it was 20 years ago, last year, or when. We would like very much to know, so we could run it down. We do not believe that the Attorney General had the correct information about it. We have had no opportunity, as you say, to come forward with the concrete facts to refute it.

Now, with reference to the two men who were shot in Belzoni, Miss.: there was some uproar and disturbance in Humphreys County and a couple other counties, only 3 in the State out of 82, as a result of the tensions which began right after the Supreme Court decision, and of which we have none since and during the year 1956. We do not know who killed this man or shot the other one any more than we know who killed the little boys or the little girls in another city. We know they tried to find those men beyond all doubt. The Mississippi Bureau of Identification was assigned a special task of finding out who shot Gus Courts and who killed the other man you referred to and it is pending before them today. They are doing their best to discover who it was.

On my honor and responsibility as Governor of the State of Mississippi, those men, to the best of my information and belief, were not shot on account of voting questions, but on account of personal questions, which have caused lots of other shooting in Mississippi for many years past.

But there was a sincere effort to apprehend whoever shot them. The fact that they have not been apprehended is no more different from this other case in the county mentioned awhile ago where apparently a crazed man—I cannot explain it any other way—had stabbed and attacked these different women, and we cannot catch him. You would be amazed to know who the Governor of the State has down there day and night trying to catch them. It is not everybody that commits

a crime who gets apprehended. As a matter of fact, we are placed at a great disadvantage by our inability to catch them. We believe were they apprehended they could tell what the shootings were about and these other charges would disappear. Until they are apprehended we will have to live under it.

Mr. MILLER. What is the Negro population of Mississippi, Governor?

Governor COLEMAN. I believe I had those figures or did have them somewhere. It is approximately 900.000 Negroes and approximately 1,200,000 whites.

Mr. MILLER. Of the 900,000, approximately how many are registered and able to vote today?

Governor COLEMAN. With reference to the population, 22,000 of them were registered to vote in 1954. That is based on an investigation I made myself, as attorney general, to determine that fact.

Voting in Mississippi is decentralized, county by county, and always has been. We do not have a State board of elections, or State canvassing board in Mississippi, as they have in many States. Possibly it has not been felt necessary to have one because until recent years we were a rural State with no density of population. It is handled at the county level and there is no central agency from which to get this information. I went out as attorney general and ran a survey to see. In 1954 we did have 22,000 registered but of that 22,000 who were registered only 8,000 of them had paid their poll tax. Nobody kept them from paying their poll tax. That poll tax is earmarked exclusively for the education of children. Naturally, as strained as we are for money to educate children, we want all the poll tax we can get. But they never paid it, so that cut it down to 8,000, of course.

In the 1955 primary for Governor, which is when most people vote, because at that election we elect everything in Mississippi from Governor on down to constable, it was said that approximately 7,000 of them voted. There were two precincts in the State where the voting population is almost entirely Negro. One of the odd things about the election was that, although I had not said the first unkind word about the Negro race in any way, shape, or fashion and my opponent condemned them world without end, he received all the votes in both precincts. That is one of the ironies of politics.

Mr. MILLER. How much is your poll tax?

Governor COLEMAN. Two dollars a year and it can accumulate for 2 years.

Mr. MLLER. What are the rules you have in the State of Mississippi, that is, the requirements for voting?

Governor COLEMAN. Up to 1890, of course, the Negro could vote. The tragedy of the thing was they were not ready to vote, they were not prepared to vote.

I heard my grandfather say that in those days he could go to the voting precinct with one box of cigars and vote the whole precinct and he had to use those tactics. That was not his fault. The Negroes were undertaking something before they were ready. The resulting things I could talk about for 2 or 3 days.

Anyway, they met in 1890 and they wrote this new constitution and set up these literacy qualifications and other things, which was sustained in the Supreme Court of the United States in Williams against Mississippi, and Negro voting just stopped, disappeared, all of it.

Incidentally, there was one member of that convention who was a Negro. His name was Isaiah T. Montgomery. He took the floor and said that the only salvation for the Negro voter was to quit this for awhile until they were prepared and ready to do it.

In recent years the constitution of Mississippi was again amended. When a man offers to register, regardless of who he is, he goes up and signs a written application to register, stating his name, address, and occupation, and those statistical facts that you would want to know anyway. Then he answer a questionnaire in writing, which under the law has to be prepared by the secretary of state, the attorney general, and the governor. The purpose for requiring a written examination is that there be a record of his application to register. The method is provided for appeal by which if he is arbitrarily denied the right to register he can appeal to the circuit court. There the registration papers are presented. Under the old system there was no record. From 1890 to 1954 he just went to register and talked to the registrar verbally. It made no difference what he said. No record of what he said was kept. He had the right of appeal, but it did not mean anything, because he had no record on which to appeal. Now these applications to register have to be kept on file and if he is denied registration the application is kept until such time as appeal time has expired. He can take his appeal to the courts and get his remedy.

The truth in many counties of Mississippi is they are registering by the hundreds right at this time. Another truth is that when the time comes to vote, they will forget about it being February 1, like thousands and thousands of white people do, and will not pay their poll tax.

Mr. MILLER. Do I understand, Governor, that anyone, colored or white, who wishes to vote in the State of Mississippi may just present himself to the registrar and give vital statistics and then answer a questionnaire.

Governor COLEMAN. That is right, which is uniform for everybody.

Mr. MILLER. Which is uniform for everybody.

Governor COLEMAN. And prescribed from the State level to be sure there would be no discrimination.

Mr. MILLER. You do not have a State board of councils. The same questionnaire is used every time.

Governor COLEMAN. Throughout the State of Mississippi.

Mr. MILLER. Throughout the State of Mississippi?

Governor COLEMAN. That is right.

Mr. MILLER. So the same questions are asked——

Governor COLEMAN. That is right.

Mr. MILLER. Of all—white and colored?

Governor COLEMAN. Exactly.

Mr. MILLER. There was testimony here yesterday by way of discrimination, and I do not recall that this was the State of Mississippi, but it was testified to by Mr. Wilkins that in some cases in the South, in certain sectors, or in a certain State, Negroes were asked the question: what was the 19th State admitted in the Union?

Governor COLEMAN. That was said to be in another State.

Mr. MILLER. And also asked: How many civilian employees were on the Federal payroll and so on.

Did you say that could not happen in the State of Mississippi?

Governor COLEMAN. I am of the firm belief, and I will be sustained in this by every lawyer, that any question like that would be unreasonable, and thus unconstitutional on its face, and could not be used to deny a vote.

Mr. MILLER. So in the State of Mississippi you ask the same question on the questionnaire to all and the same questionnaire is submitted to all and all pay the same poll tax proposed by the State; there is no discrimination between colored and white as to the right to vote.

Governor COLEMAN. These are not secret questions. The truth is when they get these questionnaires containing the questions, they hold what they call voting classes where they teach people how to answer the questions. No effort is made to stop them. If he is interested in voting and exercising the franchise and wants to learn what the questions are about there is no effort made to stop him. He knows before he goes up to the courthouse what the questions are going to be. It is not something that is sprung on him when he is not prepared.

Mr. MILLER. Governor, since there is on the record no discrimination and according to your own testimony here there is no discrimination, what would be the reason, in your judgment, as to why out of 900,000 Negro people in the State of Mississippi only 22,000 roughly, and recently only 8,000, exercised their franchise?

Governor COLEMAN. The only answer I can give is the one shown by the facts, that there were 22,000 of them registered and allowed to register under the old law. Still, after they were registered, only 8,000 paid the poll tax. I cannot tell how many of them are registered today because that check was made in 1954. However, I know I am correct in saying there are more now than then registered.

The CHAIRMAN. What were some of the questions asked, Governor, of the prospective voter? Can you recall some?

Governor COLEMAN. Well, sir, as far as the questions asked are concerned, after the constitution was amended in 1954, I was the attorney general of the State and the Governor and myself and the secretary of state met and we prepared those questions. They were sent out all over the State of Mississippi. I was already a registered voter myself, of course, and I have not seen that sheet since, and I cannot tell you what some of the questions are. I will tell you what I will do. I will arrange tonight to get it up here by air mail and get it in the record so the committee can see what they are.

(The information is as follows:)

SWORN WRITTEN APPLICATION FOR REGISTRATION

By reason of the provisions of section 244 of the Constitution of Mississippi and House bill No 95, approved March 24, 1955, the applicant for registration, if not physically disabled, is required to fill in this form in his own handwriting in the presence of the registrar and without assistance or suggestion of any other person or memorandum

1. Write the date of this application: _____
2. What is your full name? _____
3. State your age and date of birth _____
4. What is your occupation? _____
5. Where is your business carried on? _____
6. By whom are you employed? _____
7. Are you a citizen of the United States and an inhabitant of Mississippi? _____

8. For how long have you resided in Mississippi? _____
9. Where is your place of residence in the district? _____
10. Specify the date when such residence began: _____
11. State your prior place of residence, if any: _____
12. Check which oath you desire to take: (1) General _____ (2) Minister's _____ (3) Minister's wife _____ (4) If under 21 years at present, but 21 years by date of general election _____.
13. If there is more than one person of your same name in the precinct, by what name do you wish to be called? _____
14. Have you ever been convicted of any of the following crimes: Bribery, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, or bigamy? _____
15. If your answer to question 14 is "Yes," name the crime or crimes of which you have been convicted, and the date and place of such conviction or convictions _____
16. Are you a minister of the gospel in charge of an organized church, or the wife of such a minister? _____
17. If your answer to question 16 is "Yes," state the length of your residence in the election district _____
18. Write and copy in the space below, section _____ of the Constitution of Mississippi.

(INSTRUCTION TO REGISTRAR—You will designate the section of the Constitution and point out same to applicant.)

19. Write in the space below a reasonable interpretation (the meaning) of the section of the Constitution of Mississippi which you have just copied:
20. Write in the space below a statement setting forth your understanding of the duties and obligations of citizenship under a constitutional form of government.
21. Sign and attach hereto the oath or affirmation named in question 12.

_____
(The applicant will sign his name here)

STATE OF MISSISSIPPI,
County of _____.

Sworn to and subscribed before me by the within-named _____ _____ on this the _____ day of _____ 19____.

_____
(County Registrar)

Mr. HOLTZMAN. Mr. Chairman, I have one point on a question by Mr. Miller.

Governor, can you tell us, comparatively, what is the percentage of Negroes eligible to vote actually registered as compared to the percentage of whites in the last primary which you held?

Governor COLEMAN. There were about 435,000 votes polled in the race for Governor; 233,000 added to 185,000, how many would that be?

Mr. ROGERS. 418.

Governor COLEMAN. 418,000. I would say roughly 7,000 of those were, to the best of my knowledge, Negro voters, which would leave you 411,000 white.

Of course, the real facts are that the basic reason for that number is that white people through all the years have always voted and been traditionally interested in voting and participated in voting. So, therefore, they did this time.

It might be interesting to this committee to know, though, that we do not consider everything as being well in Mississippi on that subject. We repealed our absentee voter law this year on my recommendation, except for members of the Armed Forces, because they got into so much of this business of going around and dealing with absentee ballots, and we knocked the whole thing out. That really could not have been aimed at anybody but the whites.

The CHAIRMAN. Governor, along these lines I should like to read in the record the following: In 1947 Senators Styles Bridges and Bourke B. Hickenlooper issued a report that apparently showed campaigns to restrict voting by colored citizens, and we have, on page 21 of their report, the report of the Special Committee to Investigate Senatorial Campaign Expenditures in 1946. On that page there appears a list of counties in Mississippi. In Adams County, where the colored population was 16,885, only 147 were registered voters. Out of the white population of 10,344, over 3,000 were registered voters. In Washington County, where 48,831 colored persons live, only 126 were registered, while out of a total of 18,568 whites in the county, over 5,000 were registered.

I want to ask a question along those lines.

Governor COLEMAN. Let me say this, Mr. Chairman: Those figures are for 1946, the election of 1946, 11 years ago. They are wholly obsolete and inaccurate. They are typical as to what Mississippi is confronted with all the time in this battle of ideas and propaganda.

Adams County, the first mentioned there, is one of the counties in Mississippi where the Negro populace votes universally. It is the only county in Mississippi that they have a voting machine. You can subpena any one of them up here. And that is true of Washington County. Those 2 counties are the 2 counties in Mississippi, I would say, that poll the heaviest Negro vote in the State. That was not true 10 years ago.

The CHAIRMAN. I am not married to these figures. It was not put in the record to indicate that there is a great disproportion of number of Negro voters to white voters. Now apparently one of the causes is the failure to pay the poll tax. Is that not correct?

Governor COLEMAN. It is bound to be.

The CHAIRMAN. Now, Mississippi, Alabama, Arkansas, and Virginia, I believe, are the only States left that have poll taxes, and poll-tax laws are repealed, I believe, in Texas, Florida, Georgia, South Carolina, and North Carolina. There may be one more. I have forgotten which.

Mr. ABERNETHY. Florida?

The CHAIRMAN. Florida; yes. The results, I take it, would be different if the poll tax of your State were repealed. Would it not be wonderful for public relations if your State could repeal the poll tax? Then we could not bring these charges, true or false, if I may put it that way, of disenfranchisement and discrimination as is charged, rightly or wrongly, against the colored fellow.

Mr. MILLER. If the Federal Government makes up the deficit, I suppose you will go for that.

The CHAIRMAN. You do not collect too much on it anyway.

Governor COLEMAN. The answer to it, Mr. Chairman, would be, so far as the poll tax is concerned, in Mississippi all of those who become 21 years of age before the date of the general election in that year vote without payment of poll tax and all those 60 years of age and over vote without the payment of poll tax. I do not see that has any effect in that area from 60 to 75 years of age.

For example, in our State of Mississippi today, for every 2 people over 60 years of age that we have on the old-age-pension roles of the white race we have 3 people of the Negro race. For the 8,000 white children on the aid-to-children role we have 25,000 Negro children.

That is beside the point, other than a general illustration of the whole atmosphere. Those above 60 do not have to pay the poll tax at all. They are exempt, white or otherwise.

The CHAIRMAN. What is your yield for your poll tax?

Governor COLEMAN. That would only be a guess. We had figures of 418,000 votes there. All of those who were above 60 years of age, of course, did not have to pay the poll tax. It is retained in each county for the schools. It could be found out.

There is another side to it, too. The Constitution of 1890 authorized that tax to be as much as $3 a year; however, it has never been but $2. Our feeling in Mississippi is that any man who wishes to exercise the great right of franchise ought to be willing to contribute $2 a year to the public schools. That is our sincere belief.

The CHAIRMAN. I understand your point of view.

I am unfolding this because probably it would make it a little better public relations-wise.

Governor COLEMAN. Of course, as I understand it, your legislation on the subject, if it worked, would only be a remedy as to a national election; it still would not be made to apply to State elections. The end result would be that you would have people who do not pay the poll tax in that State never knowing when they were qualified to vote, when they could and when they could not. It would arouse all kinds of trouble. I do not think it would be a real good.

The CHAIRMAN. That might be advanced in the seven States that abolished it, too.

Governor COLEMAN. I believe so. It is up to the legislature of those States whether they want to keep it or not. I think we will keep it. I do not want to mislead anybody.

Mr. MILLER. H. R. 1151 will not amount to a repeal of the poll tax anyway.

Governor COLEMAN. It just says they can vote in Federal elections.

Mr. MILLER. No. It is only as to no discrimination in poll tax or the question of questionnaires, or the question of voting or voting rights. In other words, we still leave the States the right to prescribe the rules of the game.

The CHAIRMAN. Those bills have nothing to do with the poll tax. They would not have anything to do with the collection of poll taxes whatsoever. I just raise these questions to see if I could be of a little help.

Governor COLEMAN. I want to say here now to the committee and to the country, if I happen to be quoted, that we are mighty happy in Mississippi today. In 1954 and 1955 we had all this unrest and dissension going on and this potential trouble and in 1956 we are glad to have had no incidents whatsoever and to be getting along as well as we are, and it had not been based on fear or intimidation. It has been based on the continuing appeal from the Governor of the State to all of the people of the State to use their heads and commonsense and judgment and reason in these troubled times. We are mighty sorry it happened anywhere. We are proud of Mississippi, which has often been the whipping boy, that it has not been at the head of the list in 1956.

Mr. FORRESTER. Mr. Chairman, would the Chair let me make one statement.

The CHAIRMAN. Do you want to interrogate the Governor?

Mr. FORRESTER. No, sir.

The chairman knows I was on the subcommittee investigating these civil rights cases last year. At that time I made this statement, that proponents of this legislation were allowed to come in and make charges, wild charges, against the States, and against individuals, and they were given no opportunity to be heard. Consequently, it was with much interest that I noticed the gentleman from New York, Mr. Miller, asked the Governor from Mississippi some specific questions. Now I appreciate that.

Mr. MILLER. May I make an observation there?

Mr. FORRESTER. Yes.

Mr. MILLER. I wish to make an observation on this basis, because of the Governor's forthright answer to that. I am also going to request the chairman before we terminate these hearings that there should be someone called to give direct evidence of these allegations made on discrimination. I would like to have someone brought up to testify before this committee that he wanted to vote in such and such a State, was not allowed to vote, certain questions were asked him of an arbitrary nature and discriminatory damage. I think the committee should have that evidence before it passes on this issue on the basis of the allegations only.

Mr. FORRESTER. I want to say that I congratulate the gentleman on that and the Governor and I think the Governor is prepared and should be to answer any specific questions which any of the members of this subcommittee would like to ask him.

Governor COLEMAN. I feel I owe Representative Smith an apology. He was trying to answer something and I barged ahead of him. I hope he will forgive me.

Mr. SMITH. That is all right.

Governor COLEMAN. I knew the answer to the question.

Mr. RODINO. Mr. Chairman.

The CHAIRMAN. Yes, the gentleman from New Jersey.

Mr. RODINO. Getting back to the question of those exempt from the payment of poll tax, you said those 60 years of age are exempt from the poll tax.

Governor COLEMAN. And above.

Mr. RODINO. Would you be able to tell us what percentage of those 7,000 Negroes eligible to vote and voted, if you know, were of the 60 years of age or over?

Governor COLEMAN. I am sorry that I do not have the actual answer to that question because, as I said, these records were out in the 82 counties of the State. I did run this survey myself, just of my own volition, to find out what the facts were and came up with these numbers, but of course I did not have sufficient time or money available to me as attorney general to make the detailed statistical study that frankly I should have been able to make. I cannot say. I can give my judgement. I sincerely feel it was about 50–50, half who paid the poll tax and half who voted on exemption.

The CHAIRMAN. You have no central control? The county is autonomous?

Governor COLEMAN. We have an executive committee, composed of three people who name the election managers, print the ballots, and do all the mechanics of the election.

Mr. HOLTZMAN. Mr. Chairman.

The CHAIRMAN. Mr. Holtzman.

Mr. HOLTZMAN. I am a pretty poor mathematician, Governor, so I had Mr. Foley run down these figures percentagewise; 418,000 people actually voted; is that correct?

Governor COLEMAN. That is correct, in the second primary for governor in 1955.

Mr. HOLTZMAN. Seven thousand of them were Negroes.

Governor COLEMAN. The best we can get at——

Mr. HOLTZMAN. If Mr. Foley's figures are correct, and I plead not guilty to knowing the accuracy of them, it would indicate that about a little under 2 percent of the vote in your State was the Negro vote. I think you will find that that is fairly accurate, Governor, roughly. Would you say that is accurate, Governor?

Governor COLEMAN. I would say that it is probably very close to accurate, and I would also say, as Abe Lincoln said, "With charity for all and malice toward none." Maybe I should be grateful it was just 2 percent. If it had been 10 or 12 percent, I might have been defeated, in view of what took place at those Negro precincts I referred to awhile ago. It was just one of those things.

In one particular county in the State I am told during the course of that election, there were 50 Negroes whose right to vote was challenged on the ground they were not members of the Democratic Party in good faith. Under our election procedure in Mississippi, they are allowed to vote, but that vote is put in a sealed envelope and those challenged votes are sent to the county executive committee and it passes on whether or not there is any basis for the challenge. I was told of those 50 in that county, which was in a different section of the State from the others I referred to, that they counted those votes and my opponent got 48 and I got 2.

The CHAIRMAN. I want to ask you: Are those figures for the primary or general election?

Governor COLEMAN. That is primary. I had no opponent in the general election.

Mr. HOLTZMAN. If we follow your figure that half of those 2 percent represented those over 60 and those not required to pay the poll tax, that would leave us about 1 percent of those Negroes who were required to pay the poll tax who actually voted in that primary; is that correct, roughly?

Governor COLEMAN. That is as near as I can get at it; yes, sir.

The CHAIRMAN. Does counsel wish to ask any questions?

Mr. FOLEY. Governor, you cited some statistics on homicides, those involving mixed races recently. Did any of those cases involve what is commonly referred to as mob violence?

Governor COLEMAN. They did not.

Mr. FOLEY. Thank you.

Governor COLEMAN. I do want to point this out about that: last year in Mississippi, so far as equal application of the law is concerned, we had 8 people executed for crime and 4 of those people were members of the Negro race and 4 of them were members of the white race. Today in the death cell at the State prison we have 4 men waiting execution; 2 are white and 2 are Negroes; 1 of those Negroes has an application for commutation which I will act on when I get back home.

The CHAIRMAN. I think that is all, Governor.

Mr. RODINO. Governor, I would just like to ask one question. Would you have any opinion as to whether or not the passage of this legislation, which we have before us, relating to the basic civil rights, would impede the progress toward the solution of this problem.

Governor COLEMAN. Well, sir, I intended very sincerely to try to convince you of that in these remarks I made because I actually believe it to be so. Whenever you start, especially in the South, legislation from Washington, then immediately the defense mechanism and the reflex action sets in. As I said in my remarks, they will take the position: "Well, the thing for me to do is to play safe." So I think it would hurt very badly. If it is done it will not be my responsibility. I still have 3 years to serve as Governor. I will try to keep a peaceable, law-abiding State for those 3 years. Then, my distinguished successor walks in and, thank the Lord, I walk out.

Mr. HOLTZMAN. Do you think, Governor, if we pass this legislation, less than 1 percent of the Negroes eligible to vote in Mississippi will actually be voting?

Governor COLEMAN. I do not think it will change the voting situation in Mississippi in any event. It might reduce it although you could be justified in saying it is already at an irreducible minimum.

The CHAIRMAN. Governor, I just want to state that the excellent comments by Messrs. Colmer and Abernethy are indeed borne out by your testimony and I want to say also that I find your presentation cogent and clear from your side of the case. I especially want to compliment you on your remarks being so tempered.

Governor COLEMAN. Thank you. I wanted them to be that way.

Mr. ABERNETHY. Mr. Chairman, this seems to be my day. The gentleman I am now about to present is another of my constituents. My district seems to be very well represented here today. The attorney general in my State also is a lifelong friend of mine. We were born in the same town and reared in the same county. I practiced law with him for a number of years, and from that experience I can assure you he is a fine lawyer and a high-class gentleman. He is an excellent young man and has made our State a fine attorney general.

It is my privilege and honor to present to the committee the Honorable Joe T. Patterson, the attorney general of Mississippi.

The CHAIRMAN. Glad to have you.

STATEMENT OF HON. JOE T. PATTERSON, ATTORNEY GENERAL, STATE OF MISSISSIPPI

Mr. PATTERSON. Thank you, Mr. Chairman, and thank you, Congressman Abernethy.

I want to express my deep appreciation to the chairman and the other distinguished members of this committee for extending to us this privilege. I realize you are rushed here and I realize that your labors are many, and I can fully appreciate the demand upon your time.

I want to address my remarks to the so-called four-point civil rights, proposals as submitted to the Congress by the President, and the United States Attorney General, and the bills that have been introduced in support of that broad program.

I know it would take entirely too much time of this committee for me to have tried to gather together the some 50 or 60 bills on this subject that are now before this committee and pick up each bill on this talk about it specifically.

And I want to also say that I join my Governor in coming not in a spirit of resentment, certainly not in a spirit of vindictiveness, certainly not in a spirit of defiance, but as one from my State who is truly interested in the problems that the pending bills propose to correct.

Viewing the four point civil rights program, as a whole, and taking into consideration the guiding question that should control in the consideration of such far-reaching legislation, that is, whether such legislation is needed to accomplish the stated purposes, we can come to only one conclusion, and that is, that all four proposals are wholly unnecessary, in addition to the fact that all four proposals strike once again at the rights reserved unto the States by the 10th amendment, and constitute another broad step toward centralization of power in the Federal Government to the exclusion of the rights of the State.

First, let us look at the first proposal:

To establish a bipartisan Commission on Civil Rights in the executive branch of the Government.

The duties of the Commission, as I understand them, are far beyond the capacity of its membership to accomplish in the short time allotted to them by the bill. In my judgment, the task assigned this 6-member Commission could not be accomplished by 6 men, regardless of ability, in perhaps 8 or 10 years, or even longer.

Having served two 4-year terms in the legislature of my own State and having observed a similar trend in the American Congress, I learned a long time ago that the creation of a so-called temporary commission or bureau by a State legislature or by the Congress, is in fact the birth of another permanent commission or bureau of the Government.

Every duty imposed upon the proposed Civil Rights Commission can now be, and I say, should properly be, accomplished under existing Federal or State laws.

As I view the bill, practically all of the duties imposed upon the proposed Commission are properly the prerogative of Congress and State legislatures and not of a commission in the executive branch of the Federal Government.

Moreover, the creation of this Commission for its stated purposes would set up in the executive branch of the Government a source of harassment to the States in the administration of their laws and a constant source of harassment to the executive branch of the Government by those who are going to feel that this Commission is being provided for their sole benefit to the exclusion of all others.

At the very beginning—I think you will agree with me, Mr. Chairman—if the President does not appoint members of this Commission who have previously demonstrated complete sympathy and accord with the views and wishes of those well-organized groups that are responsible for this proposed legislation, he will immediately have the wrath of these groups brought down upon his head and be accused of not being in sympathy with his own recommendation.

Regardless of party affiliation, regardless of the party in power, I think we can all agree that the creation of this Commission for the

purposes stated in the bill, will be the establishment in the executive branch of the Federal Government one of the greatest sources of political harassment that the executive has ever had to contend with, and in my opinion, it already has more than its just share of that to contend with.

The second proposal is:

Creation of a new Civil Rights Division in the Justice Department under an Assistant Attorney General, to facilitate the enforcement of civil-rights statutes. The United States Attorney General said he anticipates a flow of litigation from the Supreme Court's ban on race segregation in public schools.

As I understand this proposal, it would create in the Department of Justice a new Civil Rights Division under an Assistant Attorney General appointed by the President, which would, in effect, give to this Division the status of being one step from that of Cabinet rank.

The proposals that follow the recommendation of the creation of a new Civil Rights Division in the Justice Department clearly show that it is the desire of the Attorney General to completely take over the supervision and enforcement of all so-called civil-rights legislation.

The creation of a Civil Rights Division in the Justice Department under an Assistant Attorney General and amending existing laws to give to this assistant the power and authority as recommended would create an even greater source of harassment to the States and their law-enforcement agencies than the creation of a Commission on Civil Rights.

The creation of a new Civil Rights Division in the Justice Department clothed with the authority that is requested by the Attorney General, presupposes the fact that the State courts have wholly failed to take proper cognizance of the civil rights of its citizens, regardless of race, and have not and will not see to it that the constitutional rights of its citizens are properly protected.

The CHAIRMAN. Would you say that the States now are properly protecting the constitutional rights of the citizens?

Mr. PATTERSON. Yes, I do, Mr. Chairman. I certainly do, and I think the record will bear that out.

The CHAIRMAN. I would say that as far as transportation is concerned there is some segregation. There are apparently some other fields. I am quite sure you will have to admit there is not that protection that you speak of. There is not complete integration of schools in accordance with the Supreme Court's decision.

Mr. PATTERSON. Sir?

The CHAIRMAN. There is not general or complete integration as far as the schools are concerned.

Mr. PATTERSON. No, sir.

The CHAIRMAN. Then there is not the equal protection that the Supreme Court envisages. I do believe great progress is being made. There is no doubt about it.

Mr. PATTERSON. Well, of course, there are several things to be considered, Mr Chairman.

In the first place, the Court did not say that it must be done overnight. In the second place, you have the physical responsibility there that must be met.

The Congress right now is dealing with a gigantic appropriation to aid schools, to make room for the children and to build more schools. If you have a school that was built 10 years ago, say, for white or for

colored, either way you want to put it, and if it is already loaded to 2 and 3 times the capacity for which it was built, you cannot put 500 more in there overnight.

The CHAIRMAN. Of course, there cannot be an onrush, naturally, but the Court did use the phrase "deliberate speed."

Mr. PATTERSON. Sir?

The CHAIRMAN. Of course, if the State would recognize the legality and the efforts of the Supreme Court decision I think great progress will have been made. But we have heard from the mouths of some of the witnesses that that decision has no binding effect, that even the 14th amendment, we heard tell today, is illegal. Of course, those latter are immoderate remarks, but we hear them before this committee.

Mr. PATTERSON. Those are not my remarks, Mr. Chairman.

Mr. ROGERS. As far as the State of Mississippi is concerned, any question as to their civil rights as it relates to schools, as I take it from what the Governor stated, in 1954 your State adopted the law, which, in effect, says that anytime a school or individual goes in and gets an injunction so that you will have an integrated school, immediately that school is dissolved.

Mr. PATTERSON. Yes, sir.

Mr. ROGERS. Then, you eliminated the question of any civil rights that they might have to go to school.

Is there any plan for educating the people of Mississippi if a school district should be dissolved as a result of a Federal court order?

Mr. PATTERSON. Oh, yes, sir. They would be transferred to other schools.

Mr. ROGERS. If a citizen of each school district went in and got an injunction in a district court, that would dissolve that school district; would it not?

Mr. PATTERSON. Yes, sir.

Mr. ROGERS. Then it would only be a matter of how fast they went into court to get the injunction as to how soon you would be without schools in Mississippi, would it not?

Mr. PATTERSON. Yes, sir. But proper preparation would immediately follow. In other words, we would not abandon the education of the children of Mississippi, black or white.

Mr. ROGERS. Is there any plan other than that?

Mr. PATTERSON. Sir?

Mr. ROGERS. Is there any plan other than the one that was adopted in 1954 for education of children?

Mr. PATTERSON. It would be forthcoming. The Governor can call the legislature in session on very short notice.

Mr. ROGERS. Then, you do have that problem of integration of schools in Mississippi as it relates to the Supreme Court decision?

Mr. PATTERSON. Yes, sir, very definitely, we have that problem.

Mr. ROGERS. And your first attempt to meet it is by dissolving a school district if the Federal district court in Mississippi should integrate the schools according to the decision.

Mr. PATTERSON. Yes, sir, and we think, in view of the situation we have in our State and in dealing with our people of both races, that is the best solution to it at the present time.

The CHAIRMAN. Proceed, Mr. Patterson.

Mr. PATTERSON. You know, Congressman, it is mighty easy for me to sit in Mississippi and read my papers or listen to somebody talk

and point to a deficiency in New York or Massachusetts. But, if I should be pinned down on that, the truth would be that I know absolutely nothing about the problems of New York and Massachusetts. I would just be criticizing on the basis of hearsay.

Mr. ROGERS. I am not offering criticism. I am just trying to find out the facts as to the situation.

I take it, from what the Governor had to say, that was the answer to the integration situation. Therefore, the State of Mississippi would not be violating the 14th amendment because you do not supply any schools.

Mr. PATTERSON. Yes, sir.

I can assure this committee that the State of Mississippi is going to educate the youth of the State as it has done and it is going to continue to make progress in that field.

After all, so-called civil rights cannot rise any higher than those rights conferred upon a citizenship by the Constitution of the United States and the constitutions of the respective States. The records of the State courts do not warrant the assumption that they have wholly failed in this field.

Point 3 proposes that—

> Amendment to existing law to make it a crime for any person to use intimidation, threat, or coercion to deprive anyone of his rights to vote for candidates for Federal office. At present Federal statutes, aimed at preventing deprivations of voting rights reach only State officials and private individuals.

That was the recommendation of the Attorney General, as I understand it.

In the first place, existing Federal and State statutes are fully adequate to protect the citizen against "intimidation, threat, or coercion to deprive anyone of his right to vote for candidates" for both Federal and State office.

Section 1985 of title 42, United States Code Annotated, affords full protection of the right of a citizen to vote for President, Vice President, and Members of Congress of the United States.

It is unfair to the United States district courts and the United States district attorneys throughout the country to assume that they have ignored this statute and have wholly failed to enforce it.

Moreover, every State in the Union has statutes in some form making it a crime—

> for any person to use intimidation, threat, or coercion to deprive anyone of his right to vote for candidates—

for any office, State or Federal.

As far back as 1848 the State of Mississippi had statutes making it a crime to intimidate electors in seeking to exercise their right to vote.

Section 2032 of the present Mississippi Code of 1942 provides:

> Whoever shall procure, or endeavor to procure, the vote of any elector or the influence of any person over other electors, at any election for himself or any candidate, by means of violence, threats of violence, or threats of withdrawing custom, or dealing in business or trade, or of enforcing the payment of a debt, or of bringing a suit or criminal prosecution, or by any other threat or injury to be inflicted by him, or by his means, shall, upon conviction, be punished by imprisonment in the county jail not more than 1 year or by fine not exceeding $1,000, or by both

And we have section 2106 of the Mississippi Code, which reads:

> If any person shall, by illegal force, or threats of force, prevent or endeavor to prevent any elector from giving his vote, he shall, upon conviction, be pun-

ished by imprisonment in the penitentiary for a term not exceeding 2 years, or in the county jail not exceeding 1 year, or by fine not exceeding $500, or both.

We submit that it is wholly unfair to the courts of Mississippi to assume that they will not enforce these statutes. However, the request of the United States Attorney General that—

he be authorized to bring injunction or other civil proceedings on behalf of the United States or the aggrieved person in any case covered by the broadened statute—

and his further surprising request—

for elimination of the requirement that all State administrative and judicial remedies must be exhausted before access can be had to the Federal court—

is to assume that State administrative and judicial processes have broken down and wholly failed to meet their responsibilities under the law.

If it is to be assumed that State courts have so completely failed in the field of civil rights, then it is reasonable to assume that they have at least partially failed in their responsibilities in all other matters.

If the proposed legislation creating a civil-rights commission in the executive branch of the Federal Government and a Civil Rights Division in the Justice Department of the Federal Government has become necessary on account of the failure of the State judges and other court officials to live up to their solemn oath of office, then it is reasonable to assume that they have failed all up and down the line in the discharge of their duties, and have, therefore, ceased to accomplish their mission; and in order to correct this, another commission should be created in the executive branch of the Federal Government and another division created in the Justice Department of the Federal Government to investigate, supervise, and direct on behalf of the Federal Government, or the individual concerned, in all matters that might come under the jurisdiction of State courts.

The fourth proposal to amend—

existing statutes so as to give the Attorney General power to bring civil action against any conspiracy involving use of hoods or other disguises to deprive any citizens of equal treatment under law—

so as to—

allow the Attorney General to bring proceedings on the Government's behalf—

is wholly unnecessary and places the Federal Government in the courts as the complaining party instead of the aggrieved person, who certainly should properly bring such suits.

Why should all the power and prestige of the Federal Government be thrown behind just one particular type of litigation on behalf of an aggrieved person?

Isn't it reasonable to assume that if an aggrieved person really has a just cause of action that he could stand on his own, in Federal or State court, without the Federal Government taking over for him?

I again repeat, if the Federal Government is to take over so completely in this particular field, commonly called civil rights, then is it not reasonable to assume that the precedent has been set for the Federal Government to take over in any other field of law enforcement that it might deem expedient to do so in?

Such a course is bound to culminate in virtually the entire field of law enforcement being taken over by the Federal Government and in reducing the State courts to mediocrity.

Certainly, no justification for such a course can be found in the Constitution of the United States. Certainly no such course can be justified if the States are to continue to be recognized as sovereign States.

And I want to say here and now as to the Attorney General's request for authority to prevent use of hoods, intimidation, etc., that there is no Ku Klux Klan in Mississippi and, as attorney general of the State, I say to this committee there is no place for a Ku Klux Klan in Mississippi. We have not had one since way back in the twenties.

The CHAIRMAN. Is there any White Citizens Council?

Mr. PATTERSON. Yes, sir.

But, Congressman, I say to you they are made up of the finest group of men in Mississippi. And I want to say this in defense of the citizens council: Certainly the white citizenship has just as much a right to have a citizens council dedicated to an honorable and noble cause. They have just as much right to be a member of the citizens council as others have to be a member of the NAACP, or as members of this very Congress, including the Vice President of the United States, have to be a member, or a honorary member, of the NAACP. Certainly that is a civil right we all enjoy.

I do not believe, Mr. Chairman, you would say it is all right to have a NAACP organization in Mississippi, which we do have, but no white man has a right to belong to a white citizens organization.

The CHAIRMAN. It is not a question of whether the citizens have a right. It is a question of what may or may not be done under that organization.

Mr. PATTERSON. It just simply adds up to this, Mr. Chairman, when one group organizes to tear down and destroy, certainly then another group has the right to organize and defend.

The CHAIRMAN. Well, no group has the right to tear down and destroy.

Mr. PATTERSON. No, sir; I do not think they do either. But how else are you going to defend yourself? And this requested power of use of the injunction that I understand the United States Attorney General requested before this committee on Monday——

The CHAIRMAN. He asked that for this reason, sir: There are rights now resident in the individual whose constitutional privileges are taken from him in certain respects. Those rights are based upon a very old statute passed way back in the neighborhood of 1870, the old Ku Klux Act. And he testified Monday, and he also testified last year, to the effect that the individuals are either ignorant of their rights or are intimidated in bringing those rights to the fore, and for that reason he felt that there should be the imposition of the Federal Government by the Attorney General who would bring those rights for and on behalf of the individual by way of the civil suit for damages or in order to prevent the filching of those rights before there was any action to take away those rights, and the Attorney General can bring suit by way of the injunction, purely a preventative remedy. That is the reason he gives for the extension of the statute or amendments to the statute which gives an additional remedy. The rights are there. All he says is that because of the circumstances, which will well nigh preclude the individual from bringing his case, that the Attorney General have the right to represent him.

Mr. PATTERSON. Congressman, it seems to me if he is going to take over in the enforcement of those rights, he should also recognize that

there are many other rights that the individual might have in the courts, but if he is not financially able he cannot assert them.

The Federal courts have gotten to be so expensive to operate in. I have known many men and women both black and white that perhaps had good lawsuits, but to say we are going to come in and the Federal Government is going to take this one over and be your lawyer and your prosecutor, why such a difference? Why not take over in the entire field?

The CHAIRMAN. The proof of the pudding is in the eating. This statute has been on the book a good many years.

Can you give me a solitary, single case where a citizen, an individual brought any action under those statutes?

Mr. PATTERSON. I cannot, offhand. But they were there and available to them.

The CHAIRMAN. Certainly there must have been some right of action sometime. I cannot conceive of any State being so free of fault that there would not be some sort of right that was developed. Yet we have no case on record as far as I know and as far as you know where the individual under that Ku Klux Klan statute of 1870 brought an action.

What is the reason for it?

Mr. PATTERSON. One of the reasons I believe the Ku Klux Klan became extinct. It's own wrongdoing and infamy destroyed it.

The CHAIRMAN. The act was called many years ago the Ku Klux Act, but it gave certain rights. I will read you those rights.

Mr. PATTERSON. Yes, as I say——

The CHAIRMAN. You are familiar with it, I am sure.

Mr. PATTERSON. The Ku Klux Klan, I remember it as a boy in the twenties.

The CHAIRMAN. It is not only the Ku Klux Klan.

Mr. PATTERSON. You have no less respect for their conduct in the twenties than I have.

As I wanted to say a while ago, my good dad was a lawyer and was severely criticized because he did not belong to it, and because he opposed what they stood for.

The CHAIRMAN. I will read you the rights that were accorded the individual under that old statute.

It is the United States Code, section 1985, and it had three subsections.

The first subsection establishes liability for damages against any person who conspires to interfere with an officer of the United States in the discharge of his duties and as a result thereof injures another or deprives another of rights or privileges of a citizen of the United States.

The second subsection establishes liability for damages against any person who conspires to intimidate or injure parties, witnesses, or jurors involved in any Federal court matter or conspires to obstruct the due course of justice in any State court matter with the intent to deny to any citizen the equal protection of law, if the result of these conspiracies is injury to another or deprivation of another's rights and privileges of a citizen of the United States.

The third subsection establishes liability for damages against any person who conspires to deprive another of the equal protection of the laws or equal privileges or immunities under the law or of the

right to vote in elections affecting Federal offices if the result thereof is to injure another or to deprive another of rights or privileges of a citizen of the United States.

Now those are well-defined rights. Yet, you cannot give me a single instance where an individual has sued to recoup damages or any action was brought by way of sanctions against the guilty persons.

Now if there is no such recorded action, there is something amiss and there must be something lacking in the law.

Now I take it from what the testimony yielded last year and thus far this year that the individual either did not know of his rights and therefore should be apprised by the Attorney General or by some agency, or if he does know of his rights he was in fear and he was intimidated or for some other reason he did not bring his action. Those are cogent reasons in my mind. That is why the Attorney General comes in and simply says: "We do not change these rights. We leave that original statute as it is. But we do simply say that as far as remedies are concerned that we shall come in and aid the individual who is aggrieved and whose rights have been taken from him and the Attorney General has the right to represent him in the United States district court in cases for damages or in order to prevent any deprivation of right to sue by way of injunction."

That is what this bill primarily does.

Mr. PATTERSON. But, Your Honor, Congress many years ago provided that statute. It is the law. It is there for the use of anyone who might find themselves being deprived of those very rights that those statutes give to him and protect him in.

The Federal courts have certainly been available to him all these years. The United States Attorney General has his two United States district attorneys in the State of Mississippi today.

The CHAIRMAN. It is not the question of United States attorneys taking action. These are actions accorded individuals.

Mr. PATTERSON. That is right and the Federal courts are available to them.

He is presupposing; because I know of no case anywhere—I presume his presumption is that down here in a few States that their rights have been bound to have been violated under these statutes and the fact that no one has come up and complained under them "give me this broad and sweeping power and let me go down there and hunt and see if I can't find some cases that they should have brought under these various statutes."

The CHAIRMAN. Do I gather that your contention is that these statutes have never been violated?

Mr. PATTERSON. I would not say that, sir. But, on the other hand, let's take the converse of it. I will answer that by saying "No." Now then if you should put the converse of that question to me, name the case, I still have to say I do not know.

The CHAIRMAN. I am not so naive. I think there must be a deeper cause than what you indicate. I am of the conviction that the Attorney General is correct in this regard, and I do not agree with the Attorney General in most instances, but here I am afraid I have to.

Mr. PATTERSON. This sweeping injunctive power that he is requesting here, to go into a State, as I understand him, prior to an election, and to assume that somebody's rights are going to be violated.

We might ask, "Now, Mr. Attorney General, what rights are going to be violated? I don't know, but they are going to be violated."

"Therefore, I am going down to Mississippi, Georgia, or Alabama, and get an injunction. Somebody is going to violate some civil rights, I don't know who is going to do it, but give me an injunction against the people of the whole State."

That is what that adds up to as I see it.

The CHAIRMAN. He would not interfere in a case and seek out a judge. There has to be something to indicate a clear violation, not a figment of the imagination. He would have to have something to base it on.

Mr. PATTERSON. Prior to the commission of any act, what is he going to base a preelection injunction on?

The CHAIRMAN. He was rather clear on that and he said there must be something in the nature of clear and present danger, must be something in the nature of an overt act, that would be clear and would indicate that something is going to happen that is going to be in violation.

Mr. PATTERSON. You already have these Federal statutes against intimidations at elections and we have our State statutes.

Frankly, Mr. Chairman, I concur with, and more or less repeat what my good friend, the Governor, just said a while ago. We are departing from one of the greatest of constitutional rights and civil rights, especially that part of the Constitution which says a person can only be charged with crime by presentment of an indictment which, of course, has to come at the hands of the grand jury, and can only be convicted of a crime by a jury of his peers.

This gives to the Department of Justice the authority, and a way to completely evade the greatest of civil rights guaranteed to all of us, regardless of color. This provides a method to go into court and indict on accusation and accusation alone, and it gives the court the power to find for contempt and therefore you might say convict one of crime, and mete out punishment, with no restriction thrown around it whatsoever.

I think it is reasonable to assume that the four-point civil-rights program, as recommended, is aimed directly at one section of the United States; however, I think that it would be well to consider the effect that such broad and sweeping authority conferred upon the Department of Justice might have upon every State in the Union, the power conferred upon the Department of Justice by these proposals can be exercised and brought to bear upon the States of New York and California as well as upon the people of Mississippi and Georgia.

The right kind of thinking people in every State, regardless of location, concede that members of so-called minority races are entitled to have their rights as guaranteed to them by the Federal and State constitutions properly protected; however, I do not think that any right thinking person from any State in this Union is going to contend that the minority groups have paramount rights to the exclusion of the majority.

Speaking for the State of Mississippi and its fine people, the record wholly fails to show where the people of Mississippi have ignored the civil rights of the Negro race, which up until only a few years ago constituted more than 50 percent of its population, and in some

counties and towns exceeded the white population as high as 10 to 1, and almost that ratio in some localities today.

A spirit of understanding and good will has existed between the white and colored races in the State of Mississippi for more than 100 years, and each race has prospered and gone forward side by side in an atmosphere of sympathy, understanding, and good will.

The charge of economic pressure being brought upon members of the Negro race by the people of Mississippi is unfounded and wholly refuted by the number of prosperous business and professional members of the Negro race in Mississippi.

If an unbiased investigator wants to get at the truth of this charge of economic pressure, he has only to go to the banks, the mercantile establishments, and other leading businessmen and make inquiry as to the credit rating of these reliable and well-to-do members of the Negro race.

An unbiased investigator has only to look at the farms and different business enterprises owned exclusively and operated by members of the Negro race to arrive at the conclusion that a member of the Negro race can prosper in the State of Mississippi and be protected in his right to do so.

I could cite many instances. I was reading the other night statistics which said that there was as many Cadillacs in proportion to population in the State of Mississippi as you would find in any State in the Union, and I want to say to this committee that members of the colored race ride in their proportionate share of them.

The attorney general of Mississippi does not ride in one because of the logical reason that his economic status will not permit it. I am glad to see so many citizens of my State being able to afford it, both black and white.

Mr. HOLTZMAN. Does the attorney general feel he is being discriminated against in Mississippi?

Mr. PATTERSON. I certainly do not, Mr. Congressman; my bank and I own a very modest car.

As heretofore stated, the request—

> for elimination of the requirement that all State administrative and judicial remedies must be exhausted before access can be had to the Federal court—

presupposes the failure of the State courts to recognize, and properly protect, the constitutional rights of its citizens, regardless of race, color, or creed.

The unbiased mind has only to review the decisions of the Supreme Court of the State of Mississippi beginning many years ago, long before the present agitation and crusade for so-called civil rights was commenced, to come to the conclusion that the Supreme Court of Mississippi was zealously and carefully guarding the constitutional rights of its citizens, regardless of race, color, or creed, long before the present crusaders came upon the scene claiming for themselves to be the redeemer and savior of constitutional and civil rights for certain groups.

I will not burden this committee with a lengthy and detailed review of the numerous cases decided by the Supreme Court of the State of Mississippi wherein the constitutional rights of a member of the Negro race have been so forcefully upheld.

However, I would like to point out to this committee the case of Richardson versus State, decided by the Supreme Court of Mississippi on May 8, 1944.

The defendant was a Negro man who had been convicted and sentenced to death upon a charge of rape, alleged to have been committed upon a 20-year-old white woman.

It is interesting to observe extracts from the opinion of the Supreme Court of the State of Mississippi in reversing and remanding this case.

In passing upon the testimony in the case, the Supreme Court of the State of Mississippi said:

The entire record of the testimony has been read by, or in the hearing of, every member of the court. Fifty years ago in *Monroe* v. *State* (71 Miss. 196, 13 So. 884), the rule, and the philosophy thereof, for the guidance of bench and bar in such cases was laid down, and that rule has never been departed from.

It was reaffirmed in the recent case, *Upton* v. *State* (198 Miss. 339, 6 So. 2d 129). In these cases it was said that it is true that a conviction for rape may rest on the uncorroborated testimony of the person alleged to have been raped, but it should always be scrutinized with caution where there is much in the facts and circumstances in evidence to discredit her testimony, another jury should be permitted to pass thereon.

A critical and cautious scrutiny of the record of the testimony discloses that in not less than four material and in fact decisive, particulars the testimony of the prosecutrix is so highly improbable as to be scarcely believable, except, of course, to one who would simply prefer to believe it, that when the four are considered together there arises such a doubt of the truth of what she has said on the stated crucial issue as to render the evidence hardly equivalent to a preponderance much less that which must carry conviction to an impartial and unbiased mind beyond all reasonable doubt.

Mr. HOLTZMAN. This appeal was from a conviction of guilty; was it not so?

Mr. PATTERSON. Yes, sir, from a conviction of guilty.

And here is the supreme court passing on it:

A majority of the court are of the opinion, in this respect, that without the so-called confession of appellant he would be entitled to a preemptory charge.

There was another thing pointed out in that case by the supreme court of its own volition, in this same case, in reversing and remanding, on the question of due process. The Supreme Court of Mississippi pointed it out.

It is desired by some members of the court that mention be made of the fact that there hovers in the background of this record, the broad issue of due process. The record does not disclose whether the attorney who appeared for the defendant was employed or whether appointed by the courts; but, however that may have been, candor compels us to admit that he made only a token defense. We are entitled to take some knowledge of the members of the bar of the supreme court, of whom the attorney in this case is one, and we may assert with some confidence that he possesses both ability and energy. Why, then, did he make only a token defense, as to which see *Powell* v. *State of Alabama* (287, U. S. 45, 53 S. CT. 55, 77L, Ed. 158, 84 A. L. R. 527)? There must arise, therefore, more than a suspicion that there were such circumstances surrounding the trial, such a pervading atmosphere of prejudice engendered by a probable popular assumption of guilt with the resultant and revolting reaction of outrage, that it was deemed wiser by the attorney to make no more than the defense he did with the hope of life sentence, and that later, time would come to the relief of the helpless defendant. Such a situation involves due process, the protection of which, above the interest of the accused in his own life or the prosecutrix in her own vindication, is the supreme duty and responsibility of the court, and both in the trial court and here.

That is the Supreme Court of Mississippi expressing its attitude long before these reckless charges of violation of due process ever began to bother this Congress in such volume as it does now, and that is the law of Mississippi today and the attitude of the Supreme Court of Mississippi.

I submit that no court throughout the United States, Federal or State, could more clearly and forcefully express its belief in due process, and its determination to see that a member of the Negro race was accorded the full benefit of due process, than is set forth in what I have just read from that court.

Mr. HOLTZMAN. I might say that your supreme court is to be complimented. I personally would be more reassured if on the basis of such weak testimony on behalf of the prosecution there was no conviction at the very first instance. Then I would feel certainly a great deal more reassured.

Mr. PATTERSON. I can assure you the supreme court today is made up of the same caliber of men who wrote that opinion, who would follow exactly this same line of reasoning, Congressman, and that is their attitude; that is still the leading case on such questions as raised there.

A few years ago, we had the celebrated case of Willie McGee versus State, which I am sure has been brought before this committee maybe in some testimony.

Unfortunately, this case was seized upon by certain radical groups outside the State of Mississippi and made a cause celebre throughout the country. The seeds of hatred and discord were sown which in turn whipped the crowds to fever pitch and then at the psychological moment the hat was passed around for funds to save Willie McGee from an alleged legal lynching.

All of this took place after a certain attorney of New York City took charge of the defense and who, incidentally was later chief counsel for the Rosenbergs, wherein the same tactics were pursued as in the Willie McGee case.

But in spite of all of the adverse criticism heaped upon the courts and other officials of the State of Mississippi in the Willie McGee case, the fact still remains that the conviction of Willie McGee was reversed and remanded twice by the Supreme Court of the State of Mississippi, and not by the United States Supreme Court, and that his third conviction and sentence to death was affirmed by the Supreme Court of Mississippi and certiorari denied by the Supreme Court of the United States.

We have a recent case of *Bell* v. *State*. The defendant Bell was a young Negro boy around 20 years of age, who was charged with the killing of a white plantation manager in the Mississippi Delta. Upon arraignment, Bell advised the court that he was without counsel and had no money to employ same. The court immediately appointed two of the ablest members of the local bar to defend Bell. Bell was found guilty and sentenced to death, and his appointed counsel appealed his conviction and sentence to the Supreme Court of the State of Mississippi where they appeared and forcefully argued same, and then presented elaborate briefs.

The Supreme Court of Mississippi in its opinion setting forth the holdings of the Supreme Court in construing the law of self-defense for many years, held that Bell was—

> not guilty of any crime but acted in his reasonably necessary self-defense.

And further said:

> In our judgment, appellant was entitled to have had the directed verdict for which he asked and to acquittal, on the ground of self-defense, as convincingly demonstrated in appellant's fine brief.

It further stated:

We, therefore, reverse the judgment of the lower court and direct the discharge of appellant from custody.

We had an interesting case, *Coleman* v. *State*, decided by our supreme court on October 12, 1953.

Coleman was a Negro convicted of murder for killing the town marshal of the town of Doddsville in Sunflower County, Miss., which incidentally is Senator Eastland's hometown. The proof showed that the town marshal had ordered defendant to leave town during the early hours of the night and that later upon discovering the defendant in town, proceeded to bump and shove the defendant, informing him that he had told him that he should leave town. The defendant turned upon the town marshal, stabbing him one time with a knife, which resulted in his death.

The Supreme Court in reversing and remanding the defendant's conviction of murder, held that the defendant could not be guilty of more than manslaughter, if anything.

The Supreme Court of Mississippi has throughout the years zealously guarded against deprivation of the constitutional rights of one charged with crime, regardless of race or color, by refusing to permit any conviction to stand where in the records show that an appeal had been made to racial prejudice.

I could cite this committee to 14 or 15 leading cases where the Supreme Court has reversed cases for retrial, solely because the district attorney in his zeal to prosecute would break over the line of reasonable argument and appeal to racial prejudice.

That will reverse a case in my State before the Mississippi Supreme Court just as quick as it will reverse a case before the United States Supreme Court. And the record shows it.

I wish to say again to this committee that if the State and the Federal courts are to be permitted to continue to function in their respective fields as intended by the Constitution of the United States that such legislation as proposed in the bills here under consideration should not be enacted into law.

We already have a situation in the courts with reference to habeas corpus proceedings wherein defendants who have been convicted in State courts and certiorari denied by the United States Supreme Court, have taken refuge in the Federal courts under petitions for habeas corpus, and thereby delayed their conviction and sentence indefinitely; in many instances, over a long period of years.

The judges throughout the country have taken cognizance of this deplorable situation and the habeas corpus committee of the Conference of the Chief Justices of the United States, in its report to the 84th Congress recommended legislation that would put a stop to such unwarranted procedure and abuse of the writ of habeas corpus in the Federal courts.

They pointed out, then, that their recommendation met virtually every situation that can be reasonably expected to arise under our system of dual sovereignty.

The CHAIRMAN. I want to state that I had offered a bill to remedy that situation.

Mr. PATTERSON. Fine, Congressman. I take it that was before the Congress the last session. I believe it passed the House of Congress and died in the Senate.

The CHAIRMAN. We passed it here and the other body did not see fit to handle it.

Mr. PATTERSON. The chief justice of my State was on that committee. Their recommendations referred to State courts by saying—

whose judges are just as sincerely desirous of protecting an accused against the invasion of constitutional rights as are the judges in the Federal system.

And I think all the members of this committee, they all being lawyers, will agree that that is correct.

I saw just only 2 weeks ago a recommendation from Mr. William Rogers, the Assistant United States Attorney General, pointing out the deplorable congestion of the dockets in the Federal courts, in offering ways and means to avoid them and yet the head man in his Department comes here and asks for something that will more than double or triple litigation in the Federal courts throughout the country.

So I would like to close by saying that the proposed legislation under consideration here would open the gate to those who would go around and foment strife and confusion among the races for a flood of litigation in the Federal courts on behalf of the Federal Government, whereas, if the Federal statutes are permitted to remain as they are now, such will not be the case.

Certainly it is not reasonable and fair to the States to assume that the judges of the State courts are not—

just as sincerely desirous of protecting an accused against the invasion of constitutional rights as are the judges in the Federal system.

The principle of States rights goes further and deeper than just civil rights.

The United States Government can never be any stronger than the 48 States that comprise it. The stronger and more independent the individual State, the stronger and more forceful the Federal Government.

It was Thomas Jefferson who stated:

It is not by the consolidation or concentration of powers, that good government is effected Were not this great country already divided into States, that division must be made, that each might do for itself what concerns itself directly, and what it can so much better do than a distant authority.

I want to point one other statement by a man who occupies high position with us now. Very recently another prominent public figure who occupies an exalted position in the Federal judiciary said this on the rights of States and I quote him:

We operate this State on the premise that in government every problem capable of solution on the local level ought to be solved on that level. Similarly, everything that can be solved by the State should be solved on that level. We want decentralization of authority because the strength of the Republic depends largely upon the virility of the State and local governments.

That statement, Mr. Chairman, came from the then Governor of California, a candidate for Vice President, Gov. Earl Warren, who now sits as Chief Justice of the United States Supreme Court.

I submit that if this sound philosophy of government advocated by the then Governor of California is applied to the bills here under discussion and all others of similar import, that such bills will never get beyond this committeee.

The same well-organized radical groups that have demanded and brought about the introduction of this proposed legislation will be just

as militant in their demands that they be permitted to select or approve the appointment of the membership of the proposed bipartisan commission and of the new Assistant Attorney General who will supervise the enforcement of the proposed laws.

They will be just as militant in their demands that the Commisison and the newly created division of the Department of Justice permit them to formulate the policy and direct the course that they will pursue in administering the law. This can only result in a widening of the breach between amicable Federal and State relations between the Federal Government and the States against whom this legislation is directed.

The history of the Southland shows without contradiction that it has contributed its part toward the progress and development of this great Nation. We are proud of the activity of our young manhood in every war that this country ever participated in.

It is always a source of pride to me that the people of the Southland, and especially in my home State, that its young men have always answered the call when this country was attacked. They headed the procession. And I am proud of the fact that so many of the young men in my State today wear the Distirguished Service Cross and the Congressional Medal of Honor, and that is the test, I think, of the patriotism of any group of people, because patriotic young men are not born to, and raised by, unpatriotic mothers and fathers.

If this country should be attacked by the enemy with a threat from without, I think I could assure this committee today that, in spite of the adverse publicity and in spite of things directed toward Mississippi, the boys from Mississippi and the boys from the Southland would be among the first to respond to the call of duty. That is one thing that I always will look back on with pride, that in this last war, if you pardon the personal reference, I was draftproof as a member of my State legislature and good draftproof for 3 years. I would have never had any respect for myself, I would have hated to look those two little postwar boys in my house in the face in years to come and let them know that their dad took advantage of an official deferment and did not answer the call of his country in 1942. I have no respect for anyone who would take any other atitude toward his country when it is attacked by a vicious and violent enemy, and I learned, too, in that great Army as an enlisted man.

I thought I knew something about the great and wholesome lesson of tolerance taught to me by my good dad. But there is no place to learn his lesson like in the military service when you stand out in line in the ranks with the boys and hear the first sergeant call the roll from Adams to Zyzik and come to know that all of them, regardless of name, are good patriotic American citizens, and it is a privilege to know them and be with them and serve with them as I did.

A great and valuable lesson was taught me there and I shall carry it through life.

Mr. Chairman, I certainly appreciate your courtesy. I hope I have not imposed upon the patience of this committee. Thank you so much.

The CHAIRMAN. The committee is very grateful for your contribution. Thank you very much.

The next witness is Mr. Philip Schiff, on behalf of the commission on social policy and action of the National Association of Social Workers.

Go ahead, Mr. Schiff.

STATEMENT OF PHILIP SCHIFF, ON BEHALF OF THE COMMISSION ON SOCIAL POLICY AND ACTION OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS

Mr. SCHIFF. Mr. Chairman, I know you had a full day. I will submit the statement of the National Association of Social Workers for the record and simply comment on 1 or 2 points.

I think for those of us who come from what we call the social engineering profession, what we listened to this morning and this afternoon, Mr. Chairman, was very interesting and very enlightening.

I think, as to the art of semantics, I think the problem as to whether or not the Federal Government—I would like to indicate what we heard today in terms of Federal precedent is something that has disturbed us in the social profession for a long, long time. I think it is only fair to say that while I am not a lawyer and know nothing about the techniques of the law in terms of Supreme Court decisions, I think it is fair to say that we in the social-work profession deal with human beings on a very day-to-day basis. We see them in our programs. We see them in the clinics and the hospitals. We see them in our family and child-welfare counseling programs. We see them in governmental programs, and we see them in voluntary programs. You can cut clean across the board in terms of our membership, and that is from all three great religions and white and Negro races.

We have a contribution to make which I think is important and I hope this committee will reserve some consideration.

I would like to indicate those for the record, today, and talk in terms of Federal precedent.

The CHAIRMAN. Can you submit your statement for the record, Mr. Schiff?

Mr. SCHIFF. I will.

The CHAIRMAN. Be very brief.

Mr. SCHIFF. I would simply like to point out, if they start to study the history of the Federal Government today, the Federal Government is up to its neck, and properly so, with the great problems involving social problems as well as human beings.

I think, if we look at the Federal budget as of today, there is less than $2 billion requested in terms of social work. There has been testified today to what is probably a very good program, particularly under your bill, Mr. Chairman, of H. R. 2145, where the Federal Government does have a role to play.

The afternoon is late. I will submit this statement, but I would like to indicate that we hope in the National Association of Social Workers that while the Keating bill is a medium bill, we hope your bill, H. R. 2145, will become the law of the land in the near future.

The CHAIRMAN. Thank you.

(Statement of Mr. Philip Schiff is as follows:)

STATEMENT OF PHILIP SCHIFF ON BEHALF OF THE COMMISSION ON SOCIAL POLICY AND ACTION OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS

Mr. Chairman and members of the committee, my name is Philip Schiff. I am here representing the National Association of Social Workers, a professional organization of persons engaged in rendering a wide range of social welfare services, with chapters located in every State of the Union With me at this

hearing, also, is Mr. Rudolph T. Danstedt, director of the Washington branch office of the National Association of Social Workers. I welcome this opportunity to speak briefly on why the association thinks it is important and urgent for this 1st session of the 85th Congress to enact a civil-rights bill.

Our association has always held since its early organization that our only test for membership should be competence and ability. The experiences of our members in recreation programs, clinics and hospitals, family and child counseling programs, governmental and voluntary programs, Catholic, Jewish, and Protestant, have convinced us that practices which tolerate discrimination directed at any part of our population, or permit barriers to isolate groups of individuals, are destructive of individual sense of personal worth and bring maladjustment, mental ill health, family disorganization, and crime. We therefore believe that discrimination in any form must be eradicated wherever it exists. This applies particularly to public housing, employment, and education.

We subscribe fully to the language in H. R. 2145 which states that adequate civil-rights legislation is essential to the Nation's security and the general welfare of our country.

The platform on civil rights adopted by our national convention in May 1956, states:

"The strength and character of the American Nation derive from its people who, coming from many parts of the world, bringing with them varying religious beliefs, and endowed with varying physical characteristics, have been able to build a common democracy based on mutual respect and belief in equality of opportunity. Acceptance of differences among individuals—whether of religious belief, political opinion, appearance, or background—is basic to social progress and freedom.

"The democratic ideal must be achieved in the minds of free men and is, therefore, dependent upon a wide range of measures to broaden the opportunities and advance the welfare of all people. In addition, however, government at all levels has a positive obligation to assure those conditions which foster this ideal and to prevent such actions by individuals and groups as undermine it."

In accordance with this objective, we advocate the accessibility to all, without regard to racial distinction, of government operated or regulated public facilities; we advocate further, for all persons who are otherwise qualified, the right to vote, to hold office, to serve on juries and to receive the protection of the law and fair trial if accused of crime. Where State or local machinery fails to protect the rights of any American citizen the Federal Government should take steps to do so.

Again may I quote from our platform on civil rights:

"All forms of governmental aid and support for public services, benefits, or facilities should be conditioned upon their availability to all eligible persons without discrimination on the basis of race, religion, or national background.

"Many States now have laws prohibiting persons operating places of public accommodation such as hotels, restaurants, or theaters from discriminating against individuals because of their racial origin, national background, or religion. State have also adopted laws prohibiting employers from applying discriminatory requirements in employment, while Federal regulations make the same requirement with respect to employers filling defense and other Federal contracts. This principle should be extended broadly."

Mr. Chairman, for too many years our Nation has waited for the passage of such legislation. We have reviewed many civil-rights bills from time to time and in my judgment the general principles established in H. R 2145 will go a long way in helping to resolve a problem which has plagued our country for almost a century. The need for the establishment of a Commission on Civil Rights in the Executive Branch of our Government, a reorganization of the civil-rights activities of the Department of Justice, the creation of a Joint Congressional Committee on Civil Rights, the protection of the right to political participation—these basic principles when enacted into legislation by the Congress will prove that America's leadership in the free world deserves the continued confidence of people everywhere.

The CHAIRMAN. The Chair files for the record a statement of the American Jewish Committee dated February 6, 1957.

(The statement referred to follows:)

STATEMENT OF IRVING M. ENGEL, PRESIDENT, AMERICAN JEWISH COMMITTEE

The American Jewish Committee was organized in 1906 and incorporated by special act of the Legislature of the State of New York in 1911. Its charter states:

"The objects of this corporation shall be to prevent the infraction of the civil and religious rights of Jews, in any part of the world; to render all lawful assistance and to take appropriate remedial action in the event of threatened or actual invasion or restriction of such rights, or of unfavorable discrimination with respect thereto * * *"

For 50 years, it has been a fundamental tenet of the American Jewish Committee that the welfare and security of Jews are inseparably linked to the welfare and security of all Americans, whatever their racial, religious, or ethnic background may be We believe that an invasion of the civil rights of any group threatens the safety and well-being of all groups in our land. Hence we are vitally concerned with the preservation of constitutional safeguards for all.

But constitutional guaranties, historical documents, and basic traditions, wonderful though they be, only establish the principles to which we Americans are dedicated It still takes people to put these principles into practice and keep them alive And because there are always some people who are slow or unwilling to do what is right, it also takes laws to make people act as they should.

Many States and cities have adopted laws during the past decade to make certain that their residents enjoy the rights which belong to all Americans.

Fifteen States have outlawed racial and religious discrimination in employment, to make sure that qualified workers have an equal chance for jobs.

Three States have forbidden bias in admission to college and professional schools, to give promising young people an equal chance for education.

Some three dozen cities have enacted ordinances requiring equal treatment in public and publicly assisted housing, to prevent unfair racial segregation and discrimination

There are also State and city laws, almost a century old in many parts of our country, barring racial or religious discrimination in parks, playgrounds, restaurants, hotels, and other places of public accommodation, resort, or amusement

The entire pattern of race relationships in many aspects of life in the United States is in the process of basic change as a result of the rejection of the "separate but equal" doctrine which had been the legal foundation for a racially segregating society.

During the year 1956 some 797 school districts in Southern and Border States were operating desegregated schools in compliance with the Supreme Court's mandate. About 110 of 208 southern tax-supported universities and colleges now admit students without discrimination or segregation based on race or color. Important strides toward equality and democracy were registered in the areas of industry and housing. Maryland became the first State south of the Mason-Dixon line to desegregate its National Guard. Baltimore and St Louis became the first cities in the southern border area to enact fair employment practices ordinances albeit, without enforcement provisions. The President's Committee on Government Contracts reported that business and industrial leaders "are responding in encouraging numbers to the philosophy that equal job opportunity is both good business and good citizenship" Eighteen major airlines agreed to end their bans on the employment of Negro pilots. In the field of housing, New York extended the nondiscrimination provisions of its law to housing built with Government-guaranteed money.

Among the greatest advances in civil rights during 1956 were the changes wrought in the sphere of public accommodations. The Civil Aeronautics Administration banned the use of Federal funds to build or improve segregated rest rooms, dining rooms, or other airport facilities anywhere in the United States The Supreme Court ruled that the "separate but equal" doctrine no longer applied to local and intrastate transportation. The Court also made it clear that racial segregation would not be tolerated at any park, playground, bathing beach, or recreation area operated by the State or any of its political subdivisions, including cities and municipalities

But while State and local laws insure equality of treatment and opportunity for millions of Americans, many additional millions are without this protection—

or can lose it simply by moving from one city or State to another. Only Congress can adopt nationwide laws, and Congress has failed to enact a single civil rights measure, as such, in the past 80 years.

All the civil rights bills currently before this committee have been considered by committees of both Houses of the Congress for the past 10 years at least. In fact, the American Jewish Committee, like other organizations that have supported the expansion of civil rights, has testified on numerous occasions before various committees and subcommittees of the Congress and before executive commissions, in favor of the enactment of civil rights measures.

On March 14, 1945, Mr. Marcus Cohn, Washington counsel of the American Jewish Committee, appeared before a subcommittee of the Senate Committee on Education and Labor, in a support of S. 101, which would have established a permanent fair employment practice committee with enforcement powers.

On May 1, 1947, Dr. John Slawson, executive vice president of the American Jewish Committee, proposed to the President's Committee on Civil Rights a comprehensive program including the following recommendations:

1. Expansion of the Civil Rights Section of the Department of Justice.
2. Enactment of a Federal anti-poll-tax bill.
3. Enactment of a Federal antilynch bill.
4. Enactment of a Federal fair employment practice law with enforcement machinery.
5. Establishment of a Federal commission on civil rights to serve in an advisory capacity to the President and other Government officials.
6. Enactment of Federal legislation barring discrimination in educational institutions which receive public funds.
7. Organization of a Government educational program, through various Federal agencies, to promote civil rights and combat prejudice.

On June 13, 1947, Mr. Ben Herzberg, chairman of our legal and civil affairs committee, testified before a subcommittee of the Senate Committee on Labor and Public Welfare in favor of S. 984, which would have established a permanent fair employment practice committee with enforcement powers.

On April 25, 1949, Col. Harold Riegelman, American Jewish Committee vice president, appeared before the President's Committee on Equality of Treatment and Opportunity in the Armed Forces in support of total and speedy elimination of segregation in the services.

On May 12, 1949, Mr. George J. Mintzer testified on behalf of the American Jewish Committee before a Subcommittee on Elections of the House Committee on Administration, to urge the enactment of H. R. 3199 to abolish the poll tax.

On May 25, 1949, as chairman of our executive committee, I testified before a special subcommittee of the House Committee on Education and Labor and urged the enactment of an effective fair employment practice law.

On October 3, 1951, I appeared before the Senate Committee on Rules and Administration in favor of Senate Resolution 105, to give the Senate realistic power to invoke cloture..

Again, on April 18, 1952, I testified before the Subcommittee on Labor and Labor Management Relations of the Senate Committee on Labor and Public Welfare, urging the enactment of effective legislation to prohibit racial and religious discrimination in employment.

On January 27, 1954, Mr. Nathaniel H. Goodrich, Washington counsel of the American Jewish Committee, testified before the Subcommittee on Civil Rights of the Senate Judiciary Committee, in support of S. 1 to establish a permanent commission to promote respect for civil rights.

On February 24, 1954, Justice Meier Steinbrink testified before the Subcommittee on Civil Rights of the Senate Committee on Labor and Public Welfare, on behalf of both the American Jewish Committee and the Anti-Defamation League, urging the adoption of S. 692 to prohibit racial and religious discrimination in employment.

On July 27, 1955, I testified before a subcommittee of the Judiciary Committee of the House in favor of a comprehensive program to bring our practices and conduct in the area of civil rights into conformity with our basic principles and constitutional guaranties.

The American Jewish Committee believes the enactment of Federal civil rights legislation is long overdue. We think the Congress should enact a comprehensive program:

To protect the right to equality of opportunity in employment;

To set up a commission to evaluate on a continuing basis the status of our civil rights and to report periodically to the Congress and the executive branch of the Government;

To raise the stature of the Civil Rights Section of the Department of Justice to a division, under the supervision of an assistant attorney general, staffed and capable of protecting the civil rights of citizens when they are threatened;

To strengthen the Federal civil rights statutes to permit the invocation of Federal jurisdiction whenever citizens are threatened or molested by State or municipal officials for asserting their constitutional or civil rights;

To abolish the poll tax as a prerequisite for voting for Federal office-holders;

To punish anyone who attempts to interfere with a citizen seeking to exercise his right to vote for Federal officials, whether in primary or general elections;

To outlaw racial segregation in all areas subject to Federal regulation or jurisdiction;

To make lynching a Federal offense.

Congressional committees have repeatedly held hearings and issued reports on many facets of this comprehensive civil rights program. Occasionally, the House has passed one or another of the bills introduced to put this program into effect. Last year the House passed H. R 627 but it failed to reach the floor of the Senate The American Jewish Committee supported that bill and we would endorse that type of meaningful legislation in the 85th Congress

The American Jewish Committee believes it is time that Federal civil rights legislation moved beyond the stage of committee hearings and reports. We express no preference or order of priority among the various civil rights issues before the Congress We believe the Congress should deal with all of them—thereby bringing our practices and conduct into conformity with our basic principles and constitutional guaranties.

The CHAIRMAN. The Chair files for the record a statement from the Honorable Hugh J. Addonizio, Member of Congress, from the 11th District of New Jersey, dated February 4, 1957.

(The statement is as follows:)

STATEMENT OF HON. HUGH J. ADDONIZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr Chairman and members of the committee, may I commend you for scheduling civil-rights legislation for consideration so promptly in the new Congress. I believe there is no subject of greater importance facing the 85th Congress than the problem of civil rights and I am gratified that your esteemed committee has accorded it the priority it so rightfully deserves

The distinguished chairman has stated that the record of testimony that was taken in the 84th Congress will be made a part of the record of these pending proceding and will become a part, as it were, of the hearings on these proposed bills in this Congress Since I submitted testimony at the previous hearing and since the civil-rights legislation sponsored by me in this Congress is similar to my bill in the preceding Congress, I have no intention of burdening the committee with repetitious testimony. I should like to emphasize, however, that the problem of civil rights will not rest dormant unless and until it is satisfactorily solved—not stalemated. The fight for the total spread of civil rights, covering all our people, in all our States, cannot be permitted to desist. It is my hope that we shall persist in this struggle with such decision, such vitality, such wholehearted dedication that victory will at long last be achieved.

Despite all the obstructions, all the antagonisms, the clock will not be turned back in the struggle to insure fundamental human and civil rights to all who live in the United States and to secure equality of treatment and opportunity for all without discrimination and segregation because of race, religion, or national origin.

All the arguments have been heard: all the evidence is on hand. The time for action is overdue, and I respectfully urge the committee to expedite the processing of civil-rights legislation It is up to the 85th Congress to end this blemish on our American tradition I ask it in the name of our national honor.

The CHAIRMAN. The Chair files for the record a statement on civil rights by the Honorable Florence P. Dwyer, Sixth District, New Jersey, dated February 6, 1957:

(The statement is as follows:)

STATEMENT ON CIVIL RIGHTS BY HON FLORENCE P. DWYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, I am deeply appreciative of having the opportunity, at this time, to make a statement on behalf of the cause of civil rights for the records of these proceedings.

Last month, the Honorable Kenneth B. Keating, of New York, introduced legislation based on President Eisenhower's four-point civil-rights program. This week, I was privileged to introduce similar legislation after the administration indicated it felt such action would strengthen the chances for passage of the President's civil-rights program during this session of Congress.

I am proud to join with other distinguished Members of the Congress in the fight for a civil-rights program that will guarantee first-class citizenship for all the people of our land. I am proud to come from a State which has done more than merely render lip service to the cause of civil rights.

New Jersey was one of the first States in the Union to take pioneering action in the field of civil-rights legislation. I know from firsthand experience that the formulation and implementation of New Jersey's program was not an easy task. I was one of many citizens of our State who worked with former Governor Driscoll, during his first term in office, to successfully evolve an effective civil-rights program

Since that time, New Jersey has developed civil-rights laws which are known throughout the Nation as a model of progressive State legislation. Other States—New York and Massachusetts, to mention just two—have similar enlightened legislation. Certainly, if the lawmakers of our State governments can produce such legislation, which has been proven successful through the passing years, we in Congress should be able to approach this serious question on a national level with calm judgment and open minds.

I believe enactment of President Eisenhower's moderate civil-rights program is one of the most urgent tasks facing this session of Congress. The very existence of so many explosive tensions in our society—tensions created by repeated infringements on civil rights and callous disregard of the liberties and human dignity that are the birthright of every American—demands such action.

It is intolerable to think of continuing two classes of citizenship in our Nation at a time when all the peoples of the free world—peoples of all races, religion, and color—are looking to us for leadership and inspiration.

It was 170 years ago that a group of illustrious men met in Philadelphia to write a new Constitution, based on freedom and equality for all, for the Thirteen Colonies that comprised an infant Nation.

Yet, today, that bright promise of equality still awaits realization for many of our people. For too long now, the urgent question of civil rights has been stalled against geographical and political barriers. For too long now, there has been too much talk about supporting the cause of civil rights, and not enough sincere action toward the goal of true equality for all.

Those in our society who seek to maintain such unsound and illogical barriers would have all the world believe that human worth is measured by the color of one's skin, or the church of one's faith, or the origin of one's ancestry.

I hope that we of the 85th Congress will reject such false concepts for all time with speedy and favorable action on President Eisenhower's recommendations for civil-rights legislation.

Assuredly, such action is long overdue.

The CHAIRMAN. We will adjourn now to meet tomorrow morning at 10 o'clock.

The first witness will be Representative Diggs, of Michigan, and following that we will have Mr. Taylor, Mr. Gray, and Mr. Wilkins from the National Association for the Advancement of Colored People and probably 7 or 8 more witnesses.

(Thereupon, at 4:50 p. m., Wednesday, February 6, 1957, the committee recessed until 10 a. m., Thursday, February 7, 1957.)

CIVIL RIGHTS

THURSDAY, FEBRUARY 7, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to recess, at 10 a. m., in room 346, House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler (presiding), Rodino, Rogers, Holtzman, Keating, and Miller.

Also present: William R. Foley, general counsel.

The CHAIRMAN. The committee will come to order.

Mr. Edelsberg, you have a statement which you wish to place in the record?

Mr. EDELSBERG. Yes, sir, on behalf of the Anti-Defamation League of B'nai B'rith.

The CHAIRMAN. We will be glad to receive it.

Mr. EDELSBERG. Thank you, sir.

(The statement of Mr. Herman Edelsberg of the Anti-Defamation League of B'nai B'rith is as follows:)

STATEMENT OF THE ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

Once again the Anti-Defamation League of B'nai B'rith comes before this committee to add its voice to those of the many religious, civic, veterans, and educational groups, representing many millions of Americans of all faiths, which have been petitioning Congress to enact civil rights legislation. It is our earnest hope and expectation this time that the 85th Congress will go down in history as the first Congress since reconstruction days to pass a significant civil rights bill.

The Anti-Defamation League is the educational arm of B'nai B'rith, America's largest and oldest Jewish service organization, having been founded in 1843. It seeks to promote good will and understanding among Americans of the various religious, ethnic, and racial groups and to prevent discrimination against any of them. To this end it has developed a vast library of educational materials and programs widely used by the schools and the mass media of America. The ADL program has its roots in the religious teachings of Judaism that man is a creature of God, that all men are equal before the Almighty, and that the dignity of the individual is God-given and must not be violated—teachings which are shared, of course, by all our great religions.

In the last decade we have witnessed great progress in securing equal rights for all Americans. The contributions of the Supreme Court and the executive branch in this and earlier administrations have been outstanding, as have been the contributions of private organizations. The record of the States and large cities in enacting fair employment legislation and in outlawing discrimination in colleges and public resorts is exemplary. Only Congress has failed to make any contribution to the fight for equal opportunity for all Americans since the end of the Civil War and the days of reconstruction.

Last year, the House of Representatives, truly reflecting the heart and mind of the American people, overwhelmingly passed, in a bipartisan effort, a constructive civil rights bill by a vote of more than 2 to 1. Unfortunately, the lateness

of the hour of passage—the bill came to a vote 4 days before the end of the session—prevented Senate consideration of the bill. The bill is now before your committee again. This time there is a greater disposition and determination to act on civil rights in the Senate. By prompt action now the House can insure that civil rights legislation will not meet the same fate it suffered last year in the Senate.

We do not propose in this brief statement to undertake any detailed analysis of the provisions of the various bills before this committee. Our testimony in behalf of these measures in prior hearings is in the record. We should like now, however, to second the able and persuasive analysis of Attorney General Brownell of the bipartisan bill which the House passed last year. We think it well to emphasize that this bill does not make criminal any act which is not now criminal. It does not enlarge the jurisdiction of the Federal Government. What it does is add to the remedies available to the Attorney General—in cases in which the Federal Government now has jurisdiction—the time-honored civil equitable remedies. Thus, the Attorney General will be permitted to seek by court order to protect constitutional rights against those violations, which, if committed, would permit him now to prosecute criminally under the existing statutes.

This additional remedy requested by the Department of Justice may, in some cases, be more just and more effective than criminal prosecution in preventing civil-rights violations. That the civil remedy can frequently be more appropriate and effective is demonstrated in a great variety of cases—antitrust and unfair labor practices, for example.

The bill in question is, of course, limited in scope. It does not, for example, deal with the problem of employment discrimination. But, while it is a modest bill, it is at the same time a meaningful and realistic bill—one which can be enacted by the 85th Congress. It is a bill, which if enacted into law, can demonstrate the determination of the Federal Government to secure the equal protection of the laws for all its citizens. It is a bill, which would help to prevent some of the violence which in recent months has occurred with increasing frequency to the dismay of decent law-abiding citizens in every section of our country.

The civil-rights bills are an earnest of America's desire to vindicate the ideals of equality of our religious and political heritage. The time has come for Congress to lend its great voice to these goals.

The CHAIRMAN. Congressman Barrett, of Pennsylvania, offers a statement which we will likewise place in the record.

(The statement of Congressman William A. Barrett, of Pennsylvania, is as follows:)

TESTIMONY OF CONGRESSMAN WILLIAM A. BARRETT, FIRST DISTRICT, PENNSYLVANIA

Mr. Chairman and distinguished members of this subcommittee, as the author of six civil-rights bills now under consideration, it is my pleasure to appear before you today and continue my personal fight for speedy enactment of a workable program which will guarantee equal rights to all Americans, regardless of race, creed, or political beliefs.

It is indeed encouraging to know your committee is now actively considering these bills, because it will give me and my colleagues, who have introduced similar bills, the chance to insure their proper consideration by the entire House.

Last year I introduced a similar civil-rights program in the House and, although it was not enacted into law, I feel sure the prospects for the passage of an excellent program this session are much brighter.

I will not take your valuable time today to go into the merits of my bills, because I know you are completely acquainted with their purpose. However, I will say that I think it is high time we get the ball rolling and present to the House a program that will equalize the rights of all Americans.

We are dutybound, as representatives of the Congress of the United States, to enact legislation that will protect and guarantee equality for all our citizens. Let us not fail this time. Thank you.

The CHAIRMAN. Also, I shall place in the record a statement by Mr. Walter P. Reuther, president of the United Automobile Workers, Aircraft and Agricultural Implement Workers of America International Union.

(The statement of Mr. Walter P. Reuther is as follows:)

STATEMENT IN SUPPORT OF VARIOUS CIVIL-RIGHTS BILLS PRESENTED BY WALTER P. REUTHER, PRESIDENT OF THE UNITED AUTOMOBILE WORKERS, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA INTERNATIONAL UNION

This statement is in support and supplementation of the statement that is being presented to your committee by the Leadership Conference on Civil Rights and other participating organizations.

Because of our desire to cooperate with Chairman Celler and other members of the committee in expediting hearings on civil-rights bills for the purpose of getting the earliest possible action on such legislation in both Houses, I am asking that this statement simply be presented and filed as part of the record of your hearings, together with the comprehensive UAW statement describing the vast and tragic need for FEPC and other civil-rights legislation which we presented to the Lane subcommittee of your committee on July 27, 1955.

The statement we presented then is substantially accurate and valid today. For that reason we request that it be made part of the record of the present hearings. To it we would add the following to bring the record, as we see it, up to date:

Since July 1955 some States, cities, and towns, and many unions, including our own, have continued to make progress in establishing civil rights for all Americans, regardless of race, religion, color, national origin, or ancestry.

But, as was stated in our 1955 testimony, most progress has been made where the extent and severity of the discrimination has been less, least progress has been made where injustice is greatest.

State and local governments have acted. The courts have acted in historic pioneering advances; the Federal executive branch has acted within limits that, in our opinion, are narrower than need be, namely, through work of the Federal Committee on Contract Compliance and in instituting or supporting court actions, though not in administrative actions that might have been taken to support the courts.

Only Congress has failed to act. The do-nothing record is 2 years longer than it was when we presented our 1955 statement. Discrimination in employment, that had been reduced by President Roosevelt's wartime FEPC, has been evaded by Congress ever since the wartime FEPC was put to death in 1945 by the Russell rider on an appropriation bill. This rider was never voted upon on its merits by either House, but was forced through under the usual threat of filibuster against an entire bill.

However, progress has been made in the sense that the American people have a keener and more widespread understanding of the reason for congressional inaction. They know the roadblock to civil-rights legislation is the filibuster, the denial of majority rule. Because they have a better understanding of how and why majority rule is blocked in the Senate, the prospect for meaningful civil-rights legislation being passed by both the House and Senate and signed by the President seems better than in previous years—provided anti-civil-rights forces in both Houses can be defeated in their efforts to delay action again until late in the session when the filibuster can be used most effectively to kill legislation.

While we continue to support and to underline the need for a permanent Federal FEPC with power of enforcement through the courts, we recognize the hard political fact that, because President Eisenhower and the Republican Party are on record in opposition to an effective Federal FEPC, enactment of such legislation at this time would be extremely difficult. A majority in each House, we believe, will vote for such a bill if given an opportunity to do so. However, the filibuster has to date blocked such a vote in the Senate. If only 33 of the 28 Republican and 27 Democratic Senators who voted January 4, 1957, to readopt the rule requiring 64 votes to break a filibuster, either vote to continue a filibuster against an effective FEPC bill or, by being absent, in effect vote to keep the filibuster going, they will thereby veto the will of the majority of the Senate and of the House.

On the other hand, because the stripped down civil-rights bill, H. R. 627, which was reported out by your committee in 1956 by a bipartisan vote within your committee, and was passed by a bipartisan 2 to 1 majority in the House on July 23, 1956, again has bipartisan support and has been endorsed by President Eisenhower, it would seem to have the best prospect of passage in both Houses.

If Republicans will wholeheartedly support President Eisenhower on this issue, they can supply the votes in the Judiciary and Rules Committees and on the

floor of the House to get speedy action in the House. Then can, if they will, combine with liberal Democrats in the Senate to get the 64 votes necessary to break a certain filibuster against that bill or any other civil-rights bill that carries any practical meaning for the millions of Americans who now suffer tragic and costly discrimination because of race, religion, color, national origin, or ancestry.

Because it shows how hard the fight has been and will be, we briefly review the chronology since the 1955 hearing:

Following the July 27, 1955, hearing, the civil-rights bills remained dormant for 8 months, both in the House and Senate, partly because of southern opposition and partly because President Eisenhower and his Attorney General did not send to Congress their recommendations for civil-rights legislation.

On April 9, 1956, 3 years 3 months and 6 days after the convening of the 83d Congress, President Eisenhower and his Attorney General made their recommendations to the Congress. Committee action was stepped up in the House and Senate.

In the ensuing weeks and months, civil-rights supporters in and out of Congress worked hard to get action on the stripped-down civil-rights bill in time for final passage before adjournment. But enemies of civil rights fought skillfully and successfully.

The bills were filibustered in the Senate Judiciary Committee principally by its chairman, Senator Eastland, with the help of other southern Democrats and Republicans.

In the House, despite a bipartisan group striving for early action, enemies of civil-rights legislation fought delaying actions at every step within the committee, before the Rules Committee, and after the bill was brought to the floor 2 weeks before adjournment.

Although the final House vote on H. R 627 had been set for July 20, opponents managed to delay that vote until the following Monday, July 23, 4 days before the adjournment of Congress.

In the Senate, heroic efforts by a small bipartisan group led by Senators Douglas, Lehman, and Hennings to bring H. R. 627 to the Senate floor for vote before adjournment were blocked by the threat of filibuster. This threat was cited by Majority Leader Johnson and Minority Leader Knowland. They said the threat was not merely against H. R. 627. It was pictured as a threat to filibuster that bill and other items of legislation, including the addition of disability coverage to the old-age and survivors insurance title of the Social Security Act and the appropriation of funds for the mutual-security program. They were supported by a bipartisan vote of 76 to 6 against Douglas' effort to bring H. R. 627 to the Senate floor.

Result The stripped-down civil-rights bill, which had been passed by a 2-to-1 majority in the House and which certainly would have been passed by an overwhelming majority in the Senate, had it been allowed to come to a vote, died in a Senate Judiciary Committee pigeonhole with the adjournment of the 84th Congress at midnight, July 27.

Civil-rights supporters took the issue to both party conventions. The Democratic convention repeated earlier pledges to enact civil-rights legislation and to establish majority rule in the Congress. The Republican Party repeated more limited pledges on civil-rights legislation, omitting FEPC, and refused to pledge action to establish majority rule at the start of the 85th Congress, holding that determining rules was the exclusive concern of Members of each House.

At the opening of the 85th Congress, a strong bipartisan movement succeeded in increasing the number of Senators committed to the establishment of majority rule in the Senate at the start of the new Congress. The number nearly doubled, rising from the 1953 total of 21 to 41, 7 votes less than the majority needed to adopt rules, including a new rule 22 that would break the veto power of the filibuster and substitute majority rule (38 Senators so voting; 3 others who were absent were so committed); a tie 48–48 vote could and would have been broken by Vice President Nixon's ruling, in line with his opinion that section 3 of rule 22 is unconstitutional.

This recapitulation, we submit, is relevant to this hearing. It supports the recommendation that your committee speedily report out a bill similar to, if not identical with, the bill you reported to the House in 1956. Its four essential features were specically enumerated and endorsed by President Eisenhower in his 1957 state of the Union message:

(1) Creation of a bipartisan commission to investigate asserted violations of civil rights and to make recommendations;

(2) Creation of a Civil Rights Division in the Department of Justice in charge of an Assistant Attorney General;

(3) Enactment by the Congress of new laws to aid in the enforcement of voting rights; and

(4) Amendment of the laws so as to permit the Federal Government to seek from the civil courts preventive relief in civil-rights cases.

If your committee will so act, if civil-rights supporters in the House are successful in getting an early rule for floor consideration, and if the House will pass the bill as recommended by your committee and get it to the Senate at an early date, you and other Members of the House who support this legislation will have done a great work in the cause of civil rights. You will have put the responsibility upon the Senate early enough in the session to provide the best possible set of circumstances for early and successful efforts to run the obstacle course erected by bitter enemies of civil rights in the Senate, both in committee and on the floor.

Only final action by both Houses, transmission to the President, and his signature on a real civil-rights bill along the lines of H. R. 627 will have genuine meaning in the daily lives of the many millions of Negroes and members of other minority groups who continue to suffer daily the discriminations based on race, religion, color, national origin, or ancestry.

Ten long years ago, President Truman's Committee on Civil Rights published its findings in a report entitled "To Secure These Rights." That report concluded with a challenge: "The time for action is now."

This challenge is still unmet by Congress.

We believe the American people expect the 85th Congress to meet that challenge now, early in 1957, with civil-rights legislation at least as meaningful as the stripped-down bill passed by the House and killed by Senate filibuster last year and now supported by bipartisan forces within and outside the Congress.

The cost of another failure would be incalculably worse, economically and politically, both within our country and in its effect upon our standing among the nations of the world. The reward for success will be vast, inside and outside our country.

The time for action is now.

STATEMENT IN SUPPORT OF BILLS FOR AN EFFECTIVE FEDERAL FEPC AND OTHER CIVIL-RIGHTS BILLS

Presented for the UAW–CIO by William H. Oliver, codirector of the fair practices and antidiscrimination department, UAW–CIO, and Paul Sifton, national legislative representative, UAW–CIO

Mr. Chairman and members of the committee, this is the fifth time in 8 years that representatives of the UAW–CIO have appeared before congressional committee to state the need for an effective Federal FEPC law.

Today, as we shall show later, with more than 2½ million unemployed, the unemployment rate among nonwhite workers is twice as high as the unemployment rate among white workers.

Again we plead that fine words and political party platforms, campaign speeches, and bills that heretofore have died in committee files or on House and Senate Calendars be carried all the way through to enactment and enforcement with adequate funds.

We recognize the hard fact that any effective FEPC bill and any other substantial civil-rights bill faces rough going in the 84th Congress, either in the 1st session now drawing to a close or in the 2d session, starting in January 1956.

We recognize the fact that the way have been made harder for such legislation because we do not have majority rule in the United States Congress.

The American people may propose and plead; by using the discharge petition to get them to the floor, the House may pass FEPC and other civil-rights bills. But an anti-FEPC, anti-civil-rights minority in the Senate operating under Senate rule 22 stands ready to try to block and defeat the will of the majority of the American people, of the Members of the House and of the Senate by resorting to—or by threatening to use—the filibuster.[1]

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[1] "I am not suggesting that the filibuster is the regular order of the day on this floor. It does not have to be. However infrequently the hammer on the filibuster gun is drawn back and cocked, this veto power of the minority over the will of the majority is, as all of us well know, a factor never overlooked in legislative drafting, appropriations, strategy, and tactics in the Senate of the United States. It affects and conditions every piece of legislation from the time it is a twinkle in the eye of its parent through every stage of gestation and birth"—Senator Clinton P. Anderson, Democrat, of New Mexico, 100 Congressional Record, pt. 1, January 18, 1954, p. 349.

These obstacles can be overcome by determination and stamina of the type displayed by the enemies of civil-rights legislation.

The House Rules Committee's pocket veto can be set aside; the Senate filibuster can be broken when the majority decides to break it by wearing the filibusterers down and out, meanwhile dramatizing for the American people the fact, too little known and understood, that we do not have majority rule.

Despite the threat of veto by filibuster, the House hearings are worthwhile

Faced with the continual threat of veto by filibuster, the most undemocratic and antidemocratic feature of our Federal Government and one which we contend is unconstitutional,[2] we nevertheless deem these very brief 3 days of hearings on some 53 civil-rights bills, including FEPC, of major importance. We consider it a duty to present again for the fifth time a comprehensive statement in support of effective civil-rights legislation and, particularly, a law that will establish an effective Federal FEPC, such as is provided in the Powell bill (H. R. 690) and identical or similar bills introduced by other Members of the House.

We urge your committee to report out such a bill and to follow up such action by pressing with the greatest determination for consideration, debate, and final vote by the Members of the House If the House Rules Committee, which is controlled on many vital matters by a bipartisan coalition of southern Democrats and Republicans, refuses to report out the bill, we hope that a discharge petition will be circulated early in the second session in order to make sure that the measure can be brought to the floor early in that session.

Although all this effort, expenditure of time and money by organizations and individuals devoted to the cause of establishing fair employment and other civil rights may be frustrated by the roadblock of the filibuster, the undertaking is worthwhile It gives an opportunity to bring before the Members of this Congress and before the American people the up-to-date story of ways in which our pretensions and our fine words about freedom and democracy and equality of opportunity are made bitter on the tongues of some 20 million Americans who are discriminated against as members of minority groups and are contradicted by the day-to-day facts of discrimination as seen and heard by the peoples of other nations.

The report and recommendation of your committee and the debate upon the bills you recommend will prick the conscience of the Congress and of those among the American people who may have been given the impression that actions by State and local governments are adequate to meet the needs.

More than same solemn political Virginia Reel is needed

On March 2, 1954, in a statement presented for the CIO and the UAW-CIO, President Walter P. Reuther told a congressional committee (the Senate Labor and Public Welfare Committee) that for us or for a congressional committee simply to retell the story of the need for an effective FEPC and nothing more may raise false hopes Quoting an earlier statement on behalf of the UAW-CIO made in a similar hearing April 21, 1952, President Reuther said:

"To discuss the need for FEPC in a legislative vacuum would be to engage in transparent political paperhanging in an election year. It would not fool any considerable number of the more than 20 million American workers and their families who suffer the daily injustice of discrimination in employment. They know that the reason why they continue to suffer such discrimination is not because this committee has not acted on this FEPC legislation until now. They know it is because majority rule, necessary to get to a Senate rollcall vote on FEPC itself, is strangled by Senate rule 22.

"And the realization is growing that, by making a Senate vote on FEPC and other vital legislation less likely than in the past, rule 22 has converted a chronic legislative malady into an acute constitutional crisis that is a threat to the Nation's welfare and security."

Reviewing 7 years of effort frustrated by the veto power of the filibuster imposed upon the majority, President Reuther said that two comments seemed fair and justified

The first: "Hope deferred maketh the heart sick"

The second, as true now as when it was made more than a year ago, is:

"Members of minority groups and millions of other Americans who want FEPC, who have worked and fought and voted for it for 7 years, are sick, tired, and disgusted with the endless repetition of a solemn political Virginia reel

[2] See brief presented to Senate Committee on Rules and Administration, hearings, October 2, 3, 9, and 23, 1951, pp. 125–147.

wherein speeches are made, planks are inserted in platforms or are left out of the platforms and penciled into campaign speeches, bills are introduced and reintroduced, hearings are postponed and finally held with the expenditure of great time, effort, money, and the reassembly of well-known facts about justice on the job front, and at the end all action is boxed in the dead end of filibuster alley while hope of FEPC is strangled by the antidemocratic action of a filibustering minority.

"Yet, despite this feeling of heartsickness and exasperation, we join with others who are in earnest about FEPC in coming here and again laying out for your committee, for the record and for those in press and radio who care and dare, and for the American people, the tragic human facts, the economic loss, the forfeiture of moral leadership among the people of the world that daily flow from continued discrimination in employment."

I. THE SETTING IN WHICH THE 1955 HEARINGS ON CIVIL-RIGHTS BILLS ARE HELD

Congress has not adopted a single civil-rights measure in the past 80 years.

We have had progress not because of, but in spite of, a Congress pinned down like Gulliver under myriad strands woven by those who fear majority rule. We have had progress by Executive action, by State and local legislation, by the courts, but not by the Congress.

House attempts to get an effective FEPC law

The House Labor Committee in 1945 favorably reported out a bill authorizing a permanent FEPC. The Rules Committee refused it a rule. This action was used as a basis for the Appropriations Committee's refusal to ask for funds for the wartime agency on the grounds that the Rules unit would refuse a waiver rule on the entire war agencies funds bill, of which the FEPC item was to have been a part. The upshot was that the House could not get a clear vote on either the FEPC authorization bill or the FEPC funds item.

In 1945, the wartime FEPC established by President Franklin D. Roosevelt was put under a death sentence by a rider attached to an appropriation bill after a series of parliamentary maneuvers including Senate filibustering and the refusal of the House Rules Committee to grant a rule permitting the House to consider, debate, and vote upon either an appropriation or a permanent authorization for the agency on its own merits.

In 1949, the House Education and Labor Committee held hearings on FEPC and favorably reported a bill for floor action.

In 1950, under the 21-day rule permitting committee chairmen to bypass the bipartisan coalition in the House Rules Committee and bring a bill directly to the House floor 21 days after it had been reported to the Rules Committee, an FEPC bill was put on the House floor for debate and vote. On this occasion, southern Democrats joined with Republicans in voting to substitute the Republican McConnell FEPC bill which lacked the power of enforcement through the courts for the Powell bill providing for such enforcement.

Even this weak substitute bill, containing subpena power to obtain books, records, and testimony but lacking any means for obtaining compliance with recommendations, died in limbo, killed by the veto of the filibuster threat in the Senate.

Frustration in the Senate—veto by a filibustering minority

In 1946, a Senate filibuster against a motion to close debate on the Chavez FEPC bill blocked a vote on the issue.

In 1947, during the Republican-controlled 80th Congress, the Ives bill, virtually identical with the Chavez bill and having Senator Chavez and other Democrats as cosponsors along with Republicans, was the subject of extensive hearings. It was favorably reported and hung on the calendar where it died after Senator Russell, challenging a cloture petition filed August 2, 1948, to break a filibuster against taking up an anti-poll tax bill, had been sustained by the Republican president pro tempore of the Senate. Though favoring FEPC and effective cloture, Senator Vandenberg said he felt bound by precedent to hold that rule 22 did not permit limitation of debate upon a motion to take up a bill. He described this as "the fatal flaw" which robbed the rule of meaning.

On March 17, 1949, a few weeks before a bipartisan coalition defeated liberalizing amendments to the Taft-Hartley Act, a bipartisan coalition strengthened the veto power of the filibuster by voting 63 to 23 for a new rule 22 which, while applying cloture to any bill, resolution, measure, or motion, raised the requirements for limiting debate to 64 votes. It compounded the unconstitutionality

of this rule by adding a provision (Section 3) that even the new rule 22 could not be used to break a filibuster against a motion to take up a change in rules, thus attempting, in the words of the Senate majority leader, "to nail the Senate's feet to the floor for a thousand years."

In 1950, a bipartisan minority opposed to FEPC and other civil rights legislation twice defeated the will of the majority in attempts to take up the same FEPC bill, which had been reported out September 23, 1949. On May 19, the Senate voted 52 to 32 to break the filibuster and proceed to the consideration of the FEPC bill; on July 12, the vote was 55 to 33. Because these votes were 12 and 9 less than the 64 needed to override the veto of the filibusterers, the filibustering minority was able to veto the will of the majority; the bill was laid aside without further effort to wear out the filibusterers.

A Congressional committee tells where the body of FEPC is buried

In April 1952, late in the Second Session of the 81st Congress, hearings were held on the Ives-Humphrey bill, virtually identical with earlier FEPC bills and with the bills now before this committee. On July 3, almost unnoticed in the rush to Chicago for the Republican and Democratic National Conventions, the Senate Labor and Public Welfare Committee—Senators Hill, Taft, and Nixon dissenting—reported out the bill with the recommendation that it pass, but, as had been suggested by us during the hearings, stating in polite parliamentary language just where the body of FEPC was buried, who had killed it, and why:

"Unfortunately it lies within the power of a few to prevent real consideration of this matter in the Senate. We urge free and complete debate, but we deplore the provisions of rule 22 which permit enfeeblement of this great deliberative body."

The 1952 Republican pledges on civil rights

The 1952 Republican platform was silent on the question of the veto power of the filibuster; it passed the buck to the States on FEPC, a position spelled out during the campaign by the Republican presidential nominee, as noted below. The platform said:

"We will prove our good faith by * * * enacting Federal legislation to further just and equitable treatment in the area of discriminatory employment practices. Federal action should not duplicate State effort to end such practices; should not set up another huge bureaucracy."

The 1952 Democratic platform pledged Federal action for FEPC and other civil rights legislation and faced up to the parliamentary reality of veto-by-filibuster in pledging the establishment of majority rule in the Congress:

"We favor Federal legislation effectively to secure these rights to everyone; (1) the right to equal opportunity for employment; (2) the right to security of persons * * *.

"In order that the will of the American people may be expressed upon all legislative proposals, we urge that action be taken at the beginning of the 83d Congress to improve congressional procedures so that majority rule prevails and decisions can be made after reasonable debate without being blocked by a minority in either house."

As 1952 presidential candidate, General Eisenhower said:

"State by State, without the impossible handicap of Federal compulsion, we can and must provide equal job opportunities for our citizens, regardless of their color, their creed, or their national origin. Here is one sound approach. If I am elected to the office for which I am now a candidate, I will confer with the governors of the 48 States I will urge them to take the leadership in their States in guaranteeing the economic rights of all of our citizens. I will put at their disposal all of the information, all of the resources and all of the know-how, which a new administration can provide I will myself be at their disposal, if they desire, to support the acceptance in the various States of a program which will enlist cooperation—not invite resistance"—Newark, N J., October 17, 1952.

"I am going to try to enlist the help of all of the governors to press in their States the fight on discrimination in employment. New York has set an example. We will not use civil rights for bait in election after election. We intend to deliver real progress for all and we will."—Bronx, N. Y., October 29, 1952.

But on October 29, 1952, the same day that General Eisenhower spoke in the Bronx, Gov James F. Byrnes, of South Carolina, speaking with Governors Shivers, of Texas, and Kennon, of Louisiana, on that part of a nationwide radio-TV program that was beamed to Southern States, said:

"Let me speak of General Eisenhower * * *. He does not believe in compulsory legislation by Congress on the subject of fair employment practices."

On November 1, the eve of the 1952 elections, General Eisenhower restated his pledge in items 1 and 8 of his final 10-point Program of Progress for the United States of America:

"1. I pledge that if elected, the President of the United States will serve all the people, irrespective of their race, their creed, their national origin, and irrespective of how they voted * * *.

"8. I pledge to devote myself toward making equality of opportunity a living reality for every American. There is no room left in America for second-class citizenship for anybody."

President Eisenhower acts in limited area of 1952 pledges

In 1953–54 as President, General Eisenhower did see to it that steps were taken to make good on pledges made in those limited but substantial areas of the civil rights field which he interpreted as being within his Federal jurisdiction:

(1) Persuasion of the District of Columbia Government to include anti-discrimination clauses in District contracts;

(2) Revitalization of the Federal Contract Compliance Committee to promote enforcement of the antidiscrimination clause (long practically a dead letter) in Federal contracts for defense and civilian goods and services;

(3) The order to wipe out segregated facilities for civilian personnel in navy yards at Charleston, S. C., and Norfolk, Va., and elsewhere, and the opening up of jobs heretofore closed to Negroes at these installations;

(4) The order to cease segregation in schools for children of military personnel at Fort Benning, Ga., and other military posts:

(5) Opening up new Federal jobs to Negro appointees.

Also, the Eisenhower administration, through the Justice Department, gave continuity to the letter and spirit of the Truman administration's position in the Supreme Court actions

(6) to wipe out bans against Negro patrons in District of Columbia restaurants; and

(7) to wipe out segregation in public schools.

None of these, however, touch the basic problem of equal opportunity in civilian employment other than on Government contracts.

In 1955, civil-rights legislation is dismissed as "extraneous"

In 1955, President Eisenhower attempted to dismiss as "extraneous" proposals to include antisegregation provisions in pending legislation creating an Armed Forces Reserve, providing Federal aid for school construction, and for low- and middle-income housing.

And in July 1955, as pointed out by the chairman of the House Judiciary Committee on the first day of these brief hearings,[8] President Eisenhower and policy-forming members of his administration with one exception, the Administrator of Home Finance Administration, seemed to suggest that these hearings and these bills were in their judgment also "extraneous."

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[8] "The Attorney General was invited to appear and testify on Thuraday, July 14, on these bills, but he declined. The Interstate Commerce Commission, the Department of Defense, the Department of Health, Education, and Welfare, and the Civil Service Commission were all invited to appear on that date, and all declined. The Department of Labor, General Services Administration were invited to appear but no response has been forthcoming from them. The Housing and Home Finance Agency was invited and will appear.

"Any claim by these agencies that these 53 bills present an overwhelming and impossible task is pure deception. Most of these bills are identical copies. There are at the most 13 different bills, and, as far as substance is concerned, no more than 10 different proposals. Furthermore, most of these proposals were referred for those agencies' consideration last winter.

"These are the agencies primarily concerned with civil rights. The Justice Department, for example, has said that it could take no action because existing laws were too weak. Yet when offered the opportunity to testify on these bills, it declines. How can existing laws which are weak be made stronger without benefits of the testimony of the Justice Department?

"President Eisenhower has stated that civil-rights issues should be considered on their merits. If the executive branch ducks responsibility to testify, how can Congress adequately supply the needs of the Nation?

"Apparently the administration wants to have its cake and eat it too. The agencies decline to express themselves. Why? Apparently the administration does not want to alienate voters in certain sections of the country, the South, for example, who supported Eisenhower.

"The administration gives the impression that it supports these bills with pontifical declarations. It does not implement these declarations by deeds and actions. The administration dares not oppose these bills. It is afraid to come down to the Judiciary Committee and approve them. Such a pusillanimous attitude is most unworthy."—Testimony of the Honorable Emanual Celler (Democrat, New York) before the House Judiciary Subcommittee No. 2, on civil-rights bills, July 13, 1955.

In passing, it should be noted that Housing and Home Finance Administrator Cole, who appeared before your committee only as Administrator Cole, not as a spokesman for the Eisenhower administration, cited the FHA ban on insured loans for restricted covenant property that was issued in 1949 under President Truman following the 1948 Supreme Court decision. Mr. Cole's specific program stopped with that. He expressed a banker's fear of part 6 of the omnibus Powell bill (H. R. 389) that would plug the present gaping loopholes in FHA regulations which

1. Permit 85 percent of federally sponsored public housing to be segregated.
2. Allows slum-removal programs financed by Federal funds to clear minority groups out of their existing homes without making provision for any new housing for them; and
3. Provides little or no FHA-insured housing for minority groups.

Part 6 would require, prior to Federal guarantee of a loan, that lender and mortgagor agree in writing that there will be no discrimination because of race, color, religion, or national origin in renting or selling the property.

Mr. Cole was more concerned about possible violations of such a requirement and agreement and the effect of violations on the mortgage market than he was with the need for making sure that United States taxpayers' cash and credit will be used for fair housing and fair housing only. Such an attitude seems to be a broad invitation to builders of lily white and Jim Crow housing projects to continue to "come and get it"—providing no such discriminatory policy is put in writing and recorded. This is what we get out of reading Mr. Cole's quims and qualms. If our reading is unfair, we hope your committee will give Mr. Cole opportunity to correct or clarify his testimony.

The contempt for these bills, for this committee and, more important, for widespread conditions of economic, social, and political discrimination, injustice, individual heartbreak and mass tragedy that was expressed by the Eisenhower administration's refusal either to appear or to present statements to your committee will not pass unnoticed by the American people now or in 1956. We urge your committee to take due note in your report and findings.

II. THE BIG RUN-AROUND ON STATE-BY-STATE ACTION

Over the years, while liberal Democrats and Republicans have endeavored to get Federal action on FEPC and other civil-rights legislation, supporters of FEPC have been told to go to the State legislatures and city councils for the action denied them by a Congress in the grip of a determined minority opposed to civil rights and occupying positions of great power and influence, making the most of its balance of power in Congress while relying on nothern Democrats to furnish the margin necessary for victory in election years.

Those who have worked toward the goal of an effective permanent FEPC have made the circle trip from Washington to State capitals and city halls and back again to Washington in the past 8 years.

In 1947 the 4 States of New York, New Jersey, Connecticut, and Massachusetts had FEPC laws.

By 1954 four other States (New Mexico, Oregon, Rhode Island, and Washington) had enacted laws of some effectiveness. Five States (Colorado, Kansas, Arizona, Wisconsin, and Indiana) had laws lacking provisions for enforcement.

What the 1955 State legislatures did and did not do

In 1955 FEPC laws were enacted by the Legislatures of Michigan and Minnesota.

In Michigan, a Republican legislature had turned down Gov. G. Mennen Williams' request for a State FEPC law made year after year since he was first elected in 1948. In the 1954 elections, despite grossly unjust apportionment of the legislative districts within the State, the liberal Democratic vote increased so markedly (23 Republicans, 11 Democrats in the senate; 59 Republicans, 51 Democrats in the house as compared with 22 to 8 and 66 to 34 in 1953), that 29 Republicans in the house and 10 in the senate joined 51 Democrats in the house and 10 in the senate in supporting and passing FEPC. The new law will become effective October 14, 1955.

In Minnesota the bill was recommended by the newly elected Democratic Governor and passed by the legislature. The law will become effective July 1, 1955.

In the States of Ohio, Illinois, and California, FEPC bills were killed in Republican-controlled State senates.

In Indiana, a bill adding enforcement to the toothless FEPC law was killed in a Republican-controlled legislature.

In Pennsylvania, an FEPC bill was passed by the house but is hanging fire in the Republican-controlled senate.

So far as the public record shows, after 2½ years in the White House, President Eisenhower has yet to utter one syllable in fulfillment of his 1952 campaign pledge, made in his speech at Newark, N. J., October 17:

"If I am elected to the office for which I am now a candidate, I will confer with the governors of the 48 States. I will urge them to take the leadership in their States and guarantee the economic rights of all our citizens."

Thirty-six cities have adopted FEPC laws

By 1955 the number of cities having local FEPC's had increased to 36. The list now includes Minneapolis, Duluth, Milwaukee, Chicago, East Chicago, Gary, Cleveland, Lorain, Youngstown, Toledo, Pittsburgh, Philadelphia and Sharon, Pa., River Rouge, Pontiac and Hamtramck, Mich.

Five other cities have ordinances applying only to city employment and contracts.

Two cities (Phoenix, Ariz., and Akron, Ohio) omit enforcement provisions.

But worst areas are left untouched

Obviously, these State laws and municipal ordinances leave the worst areas of discrimination and exploitation untouched.

And, during the past year, anticivil rights leaders have used the United States Supreme Court decisions decreasing the end of segregation in public schools to launch extra-legal, if not illegal, economic sanctions against Negroes in Mississippi and other parts of the South, extending such reprisals and systematic attempts at intimidation to others who stand with Negroes in support of the Supreme Court decisions and decrees.

Through the South, President Eisenhower's 1952 campaign recommendations that the States assure fairness in employment have been treated as so much good, clean political eyewash. Progress has been made and continues to be made in some areas of civil rights, such as admission to colleges, universities, professional schools, and societies. But patterns of discrimination, Jim Crow segregation, job and wage differentials and outright closure of jobs to Negroes persist.

As we will show below out of our own efforts and experience,[4] unions have succeeded in cracking widespread injustice on the job in many individual plants and industries. Most success has been in unskilled and production jobs; the least progress has been made in highly skilled white-collar and professional jobs.

All who believe we must have fair employment in the United States, if we are to continue to lead the forces of freedom in the world, have been given a repeated runaround on a double-track railroad.

We have gone from our home communities to Washington, back to our own State capitals and city halls, and back again to Washington. This is where the remedy must be found.

III. THE CIVIL RIGHTS RECORD OF THE 83D CONGRESS

Veto by filibuster was effective in the 83d Congress organized by the Republicans, just as it had been effective in the nominally Democratic 79th Congress, the nominally Republican 80th Congress, the nominally Democratic 81st and 82d Congresses. Only determined action by liberals early in the 2d session can override this veto in the 84th Congress.

Because it is part of the setting in which these hearings are being held and affects future action or lack of action on bills here being considered, a brief recapitulation of the 83d Congress' action on FEPC is set down at this point:

Hearings on the Ives bill (S. 692) were first scheduled for May 1953.

At President Eisenhower's request, Senator Ives went to the Geneva meeting of the International Labor Office which was under vicious and unjustified attack Chairman H. Alexander Smith, a nominal cosponsor of S. 692, hearings on S. 692 by another United States delegate and, by agreement with Labor Committee were postponed to January 12, 1954.

On January 7, 1954, over the protest of Senator Ives, who had devoted months to developing plans for these hearings and who had issued the invitations to

[4] See sec. X, The UAW-CIO's Fight To Establish Justice on the Job Front.

witnesses scheduled to testify, Senator Smith wired the witnesses postponing the hearings to February 23. He gave no reason, other than "it is necessary."

Why was it necessary?

The reason would seem to be that in President Eisenhower's many 1954 messages to the Congress he had found no space to recommend action on civil-rights legislation—not even the toothless "study" bill, S. 1, introduced by Senator Dirksen January 7, 1953, during the heat of the debate over Senator Anderson's proposal to adopt Senate Rules, including a new rule 22.

On January 18, 1954, Senator Anderson urged Majority Leader Knowland to make it easier to break filibusters by taking up Senator Jenner's Senate Resolution 20 changing rule 22, also introduced at the time of the January 3, 5, 6 debate on the rules, reported to the calendar May 12 and passed over three times.

Senator Knowland made it plain that he did not intend to bring on a filibuster by trying to take up Senator Jenner's proposal for slightly weakening the veto power of the filibuster by reducing the majority needed to limit debate from 64 to two-thirds of those voting (p. 332, Congressional Record, January 18, 1954).

And Senator Lehman, speaking in support of Senator Anderson's suggestion to Senator Knowland, promised that he would take part in a new attempt to change rule 22 when the 84th Congress convened in January 1955

On January 26–27, 1954, with a minimum of notice, Senator Hendrickson held hearings on Senator Dirksen's bill (S. 1) and S. 535, which was 1 of 10 civil-rights bills introduced a year earlier by Senator Humphrey and intended to implement the recommendations made 6 years before by President Truman's Committee on Civil Rights. Either of these two bills would have created an investigating Commission on Civil Rights to study, report, and recommend, but with no power to enforce through the courts, as was proposed in S. 692.

Senator Humphrey expressed belief that this small beginning was possible in the 83d Congress; Senator Dirksen referred to "a fond hope" that the long journey toward fair employment and other civil rights might "begin with the first step."

S. 1 was never heard from again. It died in committee

The FEPC bill, S 692, received hearings in February and March 1954, was reported out of committee April 28, 1954, but died on the calendar.

IV. HAS THE 84TH CONGRESS NAILED ITS FEET TO THE FLOOR ON CIVIL RIGHTS?

In the name of "party unity" liberal Democrats did not raise the question of adopting new rules, including a new rule 22, on the opening day of the 84th Congress Senator Herbert H. Lehman (Democrat-Liberal, New York) made a statement the following day, January 6, 1955, renewing his pledge to continue the fight for majority rule.

On February 1, 1955, Senator Humphrey (Democrat, Minnesota) and other Senators introduced a bundle of 8 bills with the hope and prayer, expressed by Humphrey, that 1 or 2 might be passed.

But with the acceptance of rule 22 for this session, it seemed likely that any Senate action on such bills would be by arrangement with the anticivil rights southern wing of the Democratic Party. This appears to amount to a veto (by threat of a filibuster) leveled in advance against FEPC that is difficult but not impossible to override.

1. THE NEED FOR FEPC CONTINUES; AUTOMATION MAKES IT MORE ACUTE

While stock market prices continue to reach new highs and we are told that employment, wages, and total national production are "at or above the 1953 peak," little or no attention is directed to areas of depression, unemployment and underemployment, distress, malnutrition, large increases in consumer debts, increased business failures, falling farm income. We are told that the New Deal measures of social security, unemployment compensation, Federal deposit insurance, farm-price supports, either firm or flexible, are protection against the onset of serious recession and depression.

We are told that the gross national product is running at the rate of $383 billion a year. But top secret classification seems to be put on the fact that we should have a substantially greater total national product in order to maintain a healthy full employment economy at a high and rising standard of living

adequate to distribute, buy, and consume fair shares of abundant and increasing production of food and manufactured goods and services among a growing population.

Along the neon-lighted political midway in which barkers cry up prosperity as they sell overpriced cars, houses, and other products while they cry poverty when income and corporation taxes are mentioned, no time is spent on such facts as these:

Unemployment is acute in the Pennsylvania coalfields. (More than 1 million persons qualified to receive so-called surplus foods.)

Unemployment is substantial and chronic in Arkansas. (More than 109,000 persons in 58 counties qualified in May 1955 to receive so-called surplus foods.)

Even in such industrial centers and States such as Michigan, where the automobile industry is breaking records for car and truck production, substantial unemployment persists.

Negroes and members of other minorities against whom discrimination in employment is practiced are the last to benefit in an upturn in business activity and employment. And, typically though not universally, because they are the last hired, they are the first to be given short time, laid off or fired outright in a downturn. They are hit first and hardest when unemployment strikes a plant, a community, an area, an industry, or the Nation as a whole.

Today, with unemployment reported by the Census Bureau at 2,679,000 for the week of June 5–12, the unemployment rate among nonwhite workers is about twice as high as the unemployment rate among white workers.

Of the total, 2,177,000 were white and 502,000 were nonwhite. Expressed as percentages of the nonmilitary labor force, the white jobless rate was 3.7 and the nonwhite, 7.0. (These figures are based on a civilian labor force of 59,510,000 white and 7,185,000 nonwhite. The labor force participation rate—percentage of the total noninstitutional civilian population in the labor force—is 57.8 percent for whites and 63.1 percent for nonwhites. Male participation rates for whites and nonwhites are about the same, but the nonwhite female participation rate is substantially higher than the white female rate, the Census Bureau reports.)

While industry and business are reported competing for young workers, particularly college graduates, young Negro men and women suffer a double handicap:

(1) Because their families often lack money to continue their children's education to the limit of each one's potential ability, a smaller proportion of Negro youth finish high school and university courses;

(2) When they do finish and become jobseekers, they too often must wait longer for less and sometimes for nothing at all, measured by their education, training, and ability.

With the accelerating automation of our factories and offices, this discrimination against the young men and women of Negro and other minority groups threatens to become more acute.

If automation is a matter of needing fewer and fewer workers to turn out larger and larger volume of products, then, in the absence of FEPC, discrimination will push them farther and farther back in the line at the hiring gate.

If, as business spokesmen contend, automation is going to require more and more highly educated and trained workers, then the discrimination now existing more urgently cries out for both an effective Federal FEPC and Federal aid to education including both assistance in school construction and scholarships, made available without discrimination.

VI. MUCH GROUND HAS BEEN LOST SINCE THE DEATH OF THE WARTIME FEDERAL FEPC

That progress toward greater equity of income for nonwhite families has been made over the years cannot and should not be denied.

In 1939, according to United States Census Bureau data, the median income among nonwhite families and individuals whose major source of income was wages, was approximately 38 percent of the income of white families and individuals.

By 1950 the median income for nonwhites had risen to 55 percent of the median among whites.

TABLE I.—*Median incomes, white and nonwhite families and individuals without nonwage income, for the United States, 1939 and 1950*

	1939	1950
White families and individuals	$1,409	$3,647
Nonwhite families and individuals	$531	$2,021
Ratio (percent)	38	55

Source U. S Department of Commerce, Census Bureau Current Population Reports—Consumer Income series P-60, No 9, table 14.

Income gains and losses since 1939

Credit for this significant improvement must be given to many forces and groups.

The shift from a depression economy to full employment.

The movement by Negroes to the large Northern cities where wage rates are higher and where Negroes find greater opportunity in higher paid industrial, clerical, and professional occupations.

The work that has been done in both the North and the South by unions such as the UAW-CIO, fighting for equal job opportunities for all.

And then there is the wartime Federal FEPC, and the work done by some of the States since World War II.

This increase from 38 percent to 55 percent in an 11-year period shows, however, not only how far we have come; it shows also how much further we still have to go before economic parity is achieved.

Any feeling of complacency about the situation is reduced by examining what has happened since the end of World War II and the elimination of FEPC.

There is strong reason to believe that since 1945 we have actually lost a great deal of ground in the fight for true economic democracy.

Completely comparable figures cannot always be put together from the available data However, the United States Census Bureau does supply data that show what has happened to the ratio of incomes among white and nonwhite families, those most likely to be affected by FEPC and similar measures.

In 1945, when war and FEPC activity were at their height, the ratio of nonwhite to white family incomes also reached an alltime high. That year median income among white urban families was approximately $3,085. Among their nonwhite neighbors, the median income was $2,052 For every dollar of income received by a white family, the Negro or other nonwhite family received about 66½ cents.

By 1950, median income among white families had risen to $3,813. The median among nonwhites had risen much less—to $2,312. Instead of the approximately 67 percent of the median income among white families, the nonwhites now received less than 61 percent Negro families fell behind in the race with prices.

We want to draw attention again, as we did in October 1951, in April 1952, and *again in 1954*, to the fact that the nonwhite families fell behind in the march toward economic justice; they also fell behind tragically *in the race with prices*. From 1945 to 1950, while median incomes rose 13 percent for nonwhite families, the Consumers Price Index shot up 34 percent

TABLE II—*Median incomes, urban white and nonwhite families, 1945–50*

Year	Median income		Ratio (percent)
	White families	Nonwhite families	
1945	$3,085	$2,052	67
1946	3,246	1,929	59
1947	3,465	1,963	57
1948	3,694	2 172	59
1949	3,619	2 084	58
1950	3,813	2,312	61

Source U S Department of Commerce Bureau of the Census, Current Population Reports—Consumer Income Annual release for the years shown

Situation better in northern cities but disparity of income exists everywhere

In fairness, it must be pointed out that the situation was probably significantly better in the northern cities than in the southern cities. Census data for 1949 show that the ratio of nonwhite to white incomes among urban families in the United States as a whole was approximately 58 percent. In not one of the major southern cities for which the Census Bureau supplied comparable data was this ratio achieved. As shown in the accompanying table, the ratios (exclusive of the metropolitan areas listed) range from a low of 48 percent in Memphis to a high of 55 percent in Washington, D. C.

TABLE III.—*Median family income in 1949* [1] *and cost of the city worker's family budget* [2]

City	All families	White families only	Nonwhite families only		Cost of city worker's family budget (4 persons)
			Amount	Percent of white family income	
Atlanta, Ga.					
City	$2,495	$3,412	$1,707	50	$3,613
Metropolitan area	2,959	3,649	1,681	46	
Birmingham, Ala.					3,451
City					
Metropolitan area	2,839	3,494	1,849	52	
Memphis, Tenn.					
City	2,791	3,537	1,686	48	3,585
Metropolitan area	2,777	3,495	1,617	46	
Nashville, Tenn.					
City					
Metropolitan area	2,875	3,243	1,650	51	
New Orleans, La.					
City	2,754	3,352	1,774	53	3,295
Metropolitan area	2,756	3,341	1,695	51	
Norfolk, Va.					
City					3,295
Metropolitan area	3,063	3,439	1,536	45	
Richmond, Va.					
City					3,663
Metropolitan area	3,396	4,025	1,825	45	
Washington, D. C.					
City	3,780	4,608	2,540	55	3,773
Metropolitan area	4,130	4,641	2,506	54	
United States, urban families [3]	3,486	3,619	2,084	58	3,555

[1] U. S. Department of Commerce, Bureau of the Census, 1950 Census of Population—Preliminary Reports (Series PC–5, issued in 1951)

[2] U. S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, February 1951, p. 152.

[3] U. S. Department of Commerce, Bureau of the Census, Current Population Reports—Consumer Income. Feb 18, 1951, tables 1, 2, and 7 (NOTE.—In 1949, 54 5 percent of urban families were single-earner families.)

Data shown are for October 1949

NOTE.—The median income of families having 1 earner and 2 children under 18—the kind of family for which the city worker's family budget is set up—would probably run slightly above the median income shown in this table

Additional poignancy is given to these income figures for white and nonwhite families alike when they are compared with the cost of living—as measured by the Department of Labor budget for a city worker's family of four people—in these same cities and areas.

It can be seen from the above table that, while the median incomes among white families do come up to the cost of the budget in some cities, in others not even the relatively better paid white families can enjoy even the standard of living described in that budget.

The level of living imposed on the average nonwhite family whose income is less than half the income of white neighbors has too often been commented on to need additional stress here

VII. THE RECORD OF POSTWAR JOB DISCRIMINATION IN ONE STATE

Since prewar patterns of discrimination in employment were allowed to assert themselves again when World War II ended, it is no accident that State employment service agencies report exactly the same situation that the Federal FEPC discovered when it began its activities in 1941.

Because it is relevant and important evidence, we quote from a statement made by the executive director of the Michigan Unemployment Compensation Commission, Harry C. Markle, before the State affairs committee of the Michigan State Legislature on April 18, 1951. Mr. Markle was reporting on the experiences of the Michigan State Employment Service, which is part of his agency, in the placement of minority-group workers in the Detroit labor market area We have checked and find that his description is an accurate picture of present patterns. We are sure a similar story would have to be told no matter what State or local area was being discussed, unless that area is under an effective antidiscrimination law. Although Michigan now has a State FEPC law and progress in reducing discrimination can be expected, many other industrial States do not and, in the South, are not likely to enact effective State FEPC laws for many years.

Mr. Markle pointed out that, as wartime antidiscrimination policies came to an end, discrimination specifications in requests for workers coming to the State employment service began to mount:

"By June 1948, about 65 percent of all job openings in the Detroit labor market had written discriminatory specifications, and others with no written specifications most frequently presented rejection at the gates."

In 1948, the agency had almost 23,000 unfilled requests for workers that excluded workers of certain racial, religious, and nationality groups.

Letters tell human cost of exclusion from job opportunities

The human cost of such discrimination was told in letters received by the commission, and letters received by Gov. G. Mennen Williams, and referred by him to the commission for action.

Here is an excerpt from a letter referred to the employment service during the height of World War II, September 1943:

"I am married and have a child. My husband left for the Army Saturday and I have no one to care for the baby or myself. I haven't any place to live. * * *

"I tried to get a job in defense plants because I thought after my husband was in the Army I would get consideration but they are hiring just white women in these factories.

"If my husband was here then I wouldn't worry about work. So if it were possible for him to come home and take care of his family then we could live happy, but with him away and a Negro can't get a job because of color, I and the baby can't go on. * * *"

This is from a letter written after World War II was over:

"I've noticed the various papers are filled with male help wanted, like during the war. Well, I happened to be in the Army at that time, since January 1942 until February 1948, so I was out of that deal, not only myself by many others.

"I've been in those lines in which over 1,000 people were employed. It was always the white fellow behind me that got the job. I've been in over 15 different lines, and it's always the same thing."

This letter was dated March 12, 1951:

"GOVERNOR WILLIAMS: I want you to know I am a colored man and I went to World War (No. 2) and I have to walk and walk trying to get a job and they will not hire me.

"They will hire a white man and will not hire a colored man. They send all to war together but it is a difference when they get back to U. S. A."

Unemployment rate shows present discrimination

Additional evidence of the tragic toll taken by discrimination is the fact that, proportionately, unemployment among the nonwhite workers is greater in Detroit than among their white fellow workers This is also true nationally. Among those who have prepared themselves for white-collar jobs, the shortage of opportunity is more drastice than among unskilled workers.

At the time of Mr. Markle's statement, only one white-collar job in his file was open to a nonwhite worker Mr Markle comments: "As we proceed down the rungs of job opportunities from the skilled through the unskilled there is some appreciable improvement in the proportion of positions open to nonwhite workers Unfortunately there is also an increase in their proportion of the supply. While nonwhites represented 30 percent of the skilled applicants and 45 percent of the semiskilled, they numbered 63 percent of the unskilled."

The Michigan Employment Security Commission's December 30, 1953, report said: "Nonwhites today represent 50 percent of the labor force in the central Detroit area. The findings of the samples over the past 3 months which was in f

declining job market show a high ratio of discriminatory specifications on job orders.

"In sampling of 197 job orders in nonmanufacturing establishments from this area, 73.6 percent carried discriminatory specifications in favor of white workers, 6.6 percent in favor of nonwhites, and 6.6 percent were optional.

"In a sample of 417 job orders in manufacturing establishments, 82.7 percent carried specifications for white workers, 8.2 percent for nonwhites, and 5.8 percent were open by statement.

"In clerical, sales, professional, in a sample of 115 orders, 82.6 percent asked for white workers, 1.7 percent for nonwhites, and 1.7 percent was open by statement. The balance of the orders in each instance carried no specifications.

"Service orders, domestic and personal, showed a high degree of participation by nonwhites. Relaxations are easier to obtain also.

"The percentage ratio of placements of nonwhites is considerably greater than the orders would indicate, since most placements of nonwhites are made on orders carrying limiting race designations."

VIII. THE REAL FEPC ISSUE AS STATED BY A CONSERVATIVE ORGAN

The opponents of FEPC talk in terms of moral issues, of principles, of everything except the main issue—that they fear the economic and political effects of economic betterment of the Negro. This is no secret. In the conservative David Lawrence's U. S. News & World Report of February 11, 1949, we find the following remarkable exposition of the real issue:

"And, in the backs of their minds, some of the southerners see the old division between the Negro and the white worker wiped out in the South. An undivided southern working force would be easier to unionize. And an organized working force in the South could spell the same disaster for southern conservatives that organized labor has worked out for conservatives in the North.

"The South's political system is staked upon the battles of the present Congress, and of these the fight against a ban on filibusters is the key engagement. If the rules are changed to ban filibusters, southerners have little hope of winning their fight. Restrictions, that hold down the vote are important to the South's one-party system. And southerners fear the Negro vote and unionization.

"Negroes are insisting on more pay, a larger part in all kinds of work, and shorter hours. Negro women are demanding more pay and less work, or, in view of the better pay of their husbands, they are not working. This is deeply resented by the white South, long conditioned to Negro help for little pay.

"In this situation, old-line southern politicians are fighting with their backs to the wall. If white and Negro workers in the South manage to work together and get to the polls, they can send a new kind of southerner to Washington. He would speak for the poorest people in the Nation and might make the New York and Chicago New Dealers look like pikers. The southerners want to use the filibuster to halt this trend."

IX. THE PROBLEM IS NATIONAL; THE SOLUTION SHOULD BE NATIONAL

As will be shown by UAW-CIO experience, as set forth in section IX, organized labor has done much to insure minority groups fair treatment on the job, but labor's ability to solve the problem is limited. The basic trouble arises at the hiring gate. We shall continue to fight for the inclusion of fair hiring practice clauses in our contracts with employers. But the best we can do will not meet the national need.

Just as unions interested in fair play for minorities can have effect only within limited areas, the State laws—of which the New York law is a model—can have only a limited effect.

The process of getting individual States to pass antidiscrimination laws is just too slow.

Where discrimination is worst, where justice on the job is most needed, there is no prospect of remedy by State or local legislation.

Why should Negro families continue to eat less and wear less and sleep in worse housing and die 8 years earlier than white workers[6] for the next 10 or 15 or 20 or 50 years while we try to do in 48 separate places what needs to be done at one place and time?

The problem is a national one; the solution should be a national one.

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[6] P. 18, Employment and Economic Status of Negroes in the United States, staff report to the Subcommittee on Labor and Labor-Management Relations of the Senate Committee on Labor and Public Welfare, 1952.

A. THE UAW–CIO'S FIGHT TO ESTABLISH JUSTICE ON THE JOB FRONT

We believe that we make progress with the community. But, when leadership is required, as in the matter of fair employment, and when the Federal Government and, in many instances, State and local governments have not been prepared to move, we have moved and, we believe, have helped the community to make progress. This is in line with a basic tenet of the UAW–CIO and the CIO that democracy must be more than a symbol; it must be a living reality in the daily lives of working men and women everywhere, at the hiring gate, on the job, in the union, in the community, the State, the Nation, and the world.

In 1946, at our 10th constitutional convention, 1 year before President Walter P Reuther first appeared before a congressional committee in support of effective FEPC legislation, the UAW–CIO established what we believe is a unique program of human engineering in the field of antidiscrimination and civil rights It was intended and designed to deal with the day-to-day problems which arise in the shop, the local union, and in the community, and affect our members, now numbering 1 500,000 men and women.

Convention action had provided for the establishment of our fair practices and antidiscrimination department. The convention adopted a new provision, article 25 of our constitution, which specifically sets aside "1 cent per month per dues-paying member of the per capita" for the purpose of conducting the activities assigned to this department under our union's antidiscrimination programs and policies. By June 1947, this program was well underway.

Since 1947, our antidiscrimination program has grown in proportion with the rapid growth of the UAW–CIO membership. It has been given high priority on the agenda of unfinished business in our union shops and the community. We believe that unprecedented accomplishments have been made in this area. With a Federal fair employment practices law, progress would have been faster and greater. Such a law is still needed to complete the job

Industry hiring practices make job difficult

When we began our program, we were keenly aware of the fact that Negro men and women throughout our industry were generally assigned by management to the lowest paying and most menial job occupations in the factories.

We realized that most of these unfair hiring practices and traditional hiring patterns of management had been established in a period when there was no Executive order on FEPC and when there were no State FEPC laws. We knew the many difficult problems which we would face not only with the managements of the various plants and corporations, but among the membership and the communities as well, because the project which we had undertaken would involve many changes and innovations.

In the last 7 years, while the Federal Government has done nothing but talk about guaranteeing justice on the job front to every American citizen, we have moved further than most sections of industry. If today you would take a tour through the plants under UAW–CIO contracts in the auto industry, the farm implement industry, the aircraft industry, North and South, East and West, you would find that, as the result of the union's vigorous fight to eliminate discrimination of any sort against any minority, those workers who were formerly relegated to the lowest, dirtiest, and most undesirable job occupations primarily because of their color are today enjoying a fuller measure of equality of opportunity in UAW–CIO shops. They are employed in classifications which they heretofore could not obtain. These accomplishments have been won through negotiations, through the strengthening and broadening of the seniority provisions in the contracts with the shops whose workers we represent. This progress represents only a part of the total job which must be done to insure complete justice on the job An effective Federal FEPC law will expedite completion of this job.

Union acts to protect members against bias within own ranks

While we moved to break down age-old prejudices and discriminations in the work patterns of shops set by the hiring and management policies of industry, we also moved to deal with practices of discrimination in the local union hall and such discrimination as arises from time to time among members with various racial and national origins within local unions We have established machinery to deal with alleged acts of discrimination against a local union member by another member of the local union and/or a local union officer based on an individual's race, color, religion, sex, or national origin.

So that you may have a clear understanding of the program and the machinery for carrying it into effect, we are transmitting with this testimony copies of the UAW–CIO Handbook for Local Union Fair Practices Committees. If you will look at pages 10–22, you will find specific procedures for implementing guaranties against discrimination in the shop and in the affairs of local unions.

Under this program a worker in the shop who makes a charge of discrimination against another member of the union or a local union officer can file a complaint; the complaint can be processed through the local union's fair practices committee to the local union membership, to the international executive board, and, as a final resort, to the international union's convention.

We have also provided machinery to deal with recalcitrant local unions who refuse to observe the antidiscrimination program and policies as set forth by convention action and as implemented by the international executive board and the union's fair practices and antidiscrimination department.

Fair practices committees work for democracy in shop, local union, and community

The UAW–CIO has committees to carry on the day-to-day program against discrimination. We have organized in our union presently some 600 local union fair practices committees comprised of from 7 to 12 members, a total of approximately 5,400 persons throughout the United States and Canada. Their sole task is to work in the local union, the shop, and communities on problems of discrimination. These committees have been an effective force in the shop in utilizing the grievance machinery. Illustrations of their work are given in our handbook. These committees have participated in many community projects to end discrimination in many forms.

One example which we should like to cite involves the practices of the American Bowling Congress who categorically refused to permit a Negro, an Indian, and/or members of other minority groups to participate in organized bowling, commonly referred to as "sanctioned" bowling. This discrimination prohibited members of our local unions from enjoying together hours of relaxation and recreation in this great American sport. We took the lead in fighting this discrimination.

One of the sponsors of Federal civil rights legislation, Senator Hubert H. Humphrey, was cochairman of the National Committee for Fair Play in Bowling which, commencing in 1946, conducted a vigorous 4-year campaign to abolish the color line in bowling. In this campaign we had the cooperation of UAW–CIO local union fair practices committees throughout the country as well as a host of civic, church, fraternal, and recreational groups.

Lawsuits were filed by the CIO against the American Bowling Congress to establish the fact that the exclusion of minority groups from the national pastime of bowling was morally wrong and legally indefensible. This campaign ended with a signal victory in 1950 when the American Bowling Congress, faced with legal action and an aroused public opinion, removed the exclusion clause from its constitution. Today hundreds of bowling lanes are open to all Americans without regard to race, color, religion, or national origin.

UAW–CIO practices what it preaches; sanctions invoked to obtain compliance

Sanctions can be and are invoked as a last resort against local unions who refuse to observe antidiscrimination policies.

The progress our union has made in fighting against intolerance and discrimination has been assisted by the sanctions which our union has set up to deal with situations in which one of our own family of local unions violates the union's antidiscrimination policy. We testify here for enactment of an effective Federal fair employment practices law, referring specifically to provisions in the law providing penalties for violation of its provisions. We would be hypocrites were we to come here to insist that the Government institute such sanctions while we ourselves fail to provide like penalties for those within our union who violate our policies with respect to fair practices.

We shall describe some instances in which we invoked the sanctions of the international union after the antidiscrimination policies of our union had been violated by UAW–CIO local unions.

In Dallas, Tex., at the Braniff Air Lines local, we had organized approximately 1,000 workers. We exerted every effort through mediation and conciliation in our attempts to have this local union observe the antidiscrimination policies of our international union and admit into its membership Negro workers of the Braniff Air Lines Co. This the local repeatedly refused to do. Consequently,

the international union's executive board revoked the charter of this local union. We took this action because we believe that every person regardless of his race, color, religion, sex, or national origin should be accorded membership in our union. If any local persists in refusing any group full membership privileges, we do not want that local in the family of UAW–CIO local unions.

In promotions without discrimination action, not equivocation, yields results

In our efforts to make democracy work in local plants, we have sometimes encountered problems when we have attempted to see to it that Negro workers are upgraded in accordance with their merit, ability, and seniority. We have met resistance.

A recent case in point occurred in the International Harvester Co. plant at Memphis, Tenn., where workers in the welding department refused to work with a Negro who had been promoted to the welding occupation.

Immediately upon being advised of this unauthorized stoppage, the international executive board, on April 29, 1953, sent the following telegrams to John L. McCaffrey, president of the International Harvester Corp., and to the officers and members of local 988 in the International Harvester plant at Memphis:

"MR. JOHN L. MCCAFFREY,
"*President, International Harvester Co.,*
"*Chicago, Ill:*

"The UAW–CIO International Executive Board in session here in Detroit has voted unanimously to instruct me to advise you that our union completely supports the principle that any worker entitled to promotion on the basis of seniority and ability to handle the job shall not be denied promotion because of race, creed, color, or national origin.

"I am instructed to advise you further that if any member of our union in any of your plants attempts to obstruct such promotion, you may feel free to take disciplinary action in the full knowledge that the union will not invoke the grievance machinery to defend a work guilty of such obstruction.

"As you know, under the terms of the Taft-Hartley Act we are prevented as a union from disciplining our members in terms of their employment. The responsibility for discipline in such cases rests exclusively with management. You have our assurance that in the Memphis case, to which you refer in a wire, we shall not stand in the way of your meeting your responsibilities by appropriate disciplinary action.

"The UAW–CIO is firmly and uncompromisingly committed to the policy of nondiscrimination, and we are prepared to carry out both our contractual obligations and our moral commitments in the Memphis situation.

"Local 988 of the UAW–CIO at the Memphis International Harvester plant has been notified of this action by the UAW–CIO International Executive Board and all members of the UAW–CIO have been instructed to return to work and carry out the provisions of our contract and the policies and constitution of the UAW–CIO."

And the following telegram of the same date was sent:

"OFFICERS AND MEMBERS OF LOCAL 988, UAW–CIO, MEMPHIS, TENN.

"The international executive board of the UAW–CIO by unanimous action directs the members of local 988 to return to work and to cooperate with the international union and the management of the International Harvester Co. in implementing the provisions of the UAW–CIO–International Harvester agreement which provides for promotion based upon seniority and ability without regard to race, creed, color, or national origin.

"America cannot be a symbol of freedom and equality in the struggle against Communist tyranny and at the same time tolerate double standards in employment opportunities.

"The work stoppage in the Memphis International Harvester plant is unauthorized and is in direct violation of our contractual obligations and the international constitution of the UAW–CIO. A continuation of this unauthorized illegal and unconstitutional work stoppage can only create further difficulties which will result in hardship to all the workers and disciplinary action against those responsible for provoking this unauthorized action.

"The UAW–CIO international executive board has wired International Harvester management that our union completely supports the principle that any worker entitled to promotion on the basis of seniority and ability to handle the

job shall not be denied promotion because of race, creed, color, or national origin and that if any member of our union in any of your plants attempts to obstruct such promotion, you may feel free to take disciplinary action in the full knowledge that the union will not invoke the grievance machinery to defend a worker guilty of such obstruction.'

"All workers are urged and instructed to return to their jobs and to carry out their contractual and constitutional obligations.

"The UAW–CIO constitution was adopted by the democratic and unanimous action of approximately 3,000 delegates representing 1⅛ million members of our union.

"The international executive board is determined to see that the international constitution and the moral obligations contained therein are carried out to their fullest. We are of the firm conviction that the overwhelming majority of the workers in the International Harvester plant are in opposition to the current illegal and unauthorized action. We rely upon their good judgment and support in correcting this situation. We have advised the management of the International Harvester Co. of the unanimous action of the international executive board in the preceding wire."

Justice on the job is firmly established by prompt action

After this action by the executive board, the workers returned to their jobs and the Negro remained on the welding classification.

To those who say "the job cannot be done in the South," we say, "The job can be done."

The International Harvester situation and many other similar situations in the South are adequate evidence that if an unequivocal position is taken the results will be in the affirmative.

We believe you must have the courage to meet these situations squarely and promptly if they are to be solved.

We have worked on the theory that to do this job we have got to work on every front, at every aspect of every front, at every level on this job. We believe that, by and large, in the plants under contracts with our union we have been able effectively to integrate Negro workers into the productive classifications.

Plants escape fair employment policy despite wartime FEPC and Executive order on Government contract compliance

Several plants on the west coast would not institute fair employment practices in hiring during the wartime FEPC and the subsequent Executive orders issued after World War II.

In 1951 we found that the Chevrolet and Fisher Body plants of General Motors in Oakland, Calif., along with the Nash, Bendix, and Studebaker plants in Los Angeles, had not employed a single Negro worker during the periods in which the wartime FEPC and the subsequent Executive orders were in operation. Today, because of our negotiations with these companies, Negroes are enjoying for the first time in the history of these companies' west coast operations employment opportunities in these plants.

If Congress had acted in 1947 when, along with many others, we appeared before congressional committees to urge passage of Federal FEPC legislation, these unfortunate situations would not have persisted into 1951.

Another example which points up the need for a Federal FEPC is the employment pattern we found at the Fairchild Aircraft Corp., Hagerstown, Md., when we organized the plants. This company was not only guilty of "quota" hiring practices of Negroes but had set up a Jim Crow work pattern. The corporation had five plants which comprise the overall plant operation in Hagerstown. But the company had relegated all of its Negro employees to one segregated plant.

There are no laws in Maryland which the company could use as a convenient excuse to justify this action.

We demanded that, in keeping with the provisions of our collective-bargaining agreement, its seniority provisions, etc., this policy of maintaining a Jim Crow unit be abolished. We insisted that each and every provision of our contract was applicable to every employee and that the union would not be a party to or condone such Jim Crow segregation.

Fairchild management then raised the stock excuse that the white workers would not work with the Negroes if they were transferred or promoted to the other four units. The management would not assume any responsibility for such action until such time as there were indications by the members of our local union that they were prepared to work with their Negro brothers and sisters.

To remove this last excuse by the company for ducking their obligations under the agreement, our union followed through with the membership of this local union which voted unanimously to follow the constitution and contract as negotiated with the company. Fairchild has finally begun to integrate Negroes into the other four buildings, but has not yet put into practice the complete fair employment hiring policy which is an obligation of the company.

Skills have no color, but management does not agree

As we have worked for total integration of Negro men and women throughout our industry on production classifications, we have simultaneously worked for and are succeeding in bringing Negro youth into the apprenticeship training programs which are administered jointly by employers and the union.

We have approximately 399 joint management-union apprenticeship committees representing about 10,000 apprentices in the UAW–CIO.

With a membership as large as the UAW–CIO, the inquiry which automatically follows is, Why do we have so few joint programs? Fundamentally this is because managements have in the majority of instances, as the above figure indicates, insisted on a "go it alone" principle and stubbornly resisted our efforts in negtiations to establish joint programs with equal voice and participation by both the management and the union.

We have fought for the kind of program that would provide for a committee of an equal number of management and labor representatives to administer all of the phases of the apprenticeship training program: Such a procedure would give the union a voice in all the basic decisions arrived at with respect to policy It would also give us the opportunity to see to it that the selection of apprentices is done on an impartial and unbiased basis.

The same old story is used in barring Negroes from apprenticeships

We have met substantially the same arguments and resistance by managements on this front that we met in our efforts to have incorporated into our agreements our model antidiscrimination clause. Most managements contend that to agree to a joint program providing equal participation for union and management would be to allow the union to "usurp management's prerogatives of hiring whom they please." This attitude is primarily responsible for our lack of an adequate number of available skilled mechanics, a problem which has confronted us both during World War II and in the period since the Communist attack on South Korea.

When we entered World War II our country had approximately 50,000 apprentices in all of the skilled trades, the metal trades, and all the other trades. During that period, Germany had 2 million apprentices in training in various skilled trade occupations.

The National Manpower Council has received reports on our potential skilled manpower force as compared with other countries. We were told that the United States today has approximately 250,000 apprentices in training in skilled trades occupations. This includes all our trades. But in East Germany, a defeated country, today more than 1½ million apprentices are in training. This disparity is, we believe, in part the result of American industry's failure to take advantage of the energies and skills of millions of Negro Americans who are eager to make their maximum contribution to our economy, limited only by their individual ability, without regard to race, religion, or color. These figures underscore the fact that today and in the near future, any underutilization or waste of manpower is a threat to our economy, our standard of living, and to the nations of the free world

An effective Federal FEPC law would, we believe, be a tangible beginning in the direction of removing the barriers of discrimination which bar those capable of training from the advantages of receiving such training. It would commence to get down to the practical facts of life with respect to making available apprenticeable training to all applicants regardless of their race, religion, or color.

We in the UAW–CIO and the CIO firmly believe that skills have no color and we shall continue to work hard to provide an equal opportunity for Negro youth and youths of other minority groups to participate in all the apprenticeable training programs in which the union has a voice.

Model clause can aid, but Federal legislation is needed to speed justice on the job

In 1947 we said to the Congress, the UAW–CIO takes in all workers regardless of color, race, religion, national origin, or ancestry. They all have the same membership status. there is no second-class membership in our organization. Further, we said, "The union has no control over hiring procedure. Only after an employee is hired by the company does he come under our jurisdiction, and only then do we have anything to say about his status in plant."

We disagreed at that time with the philosophy which management was advocating then, and continues to advocate today. We in the UAW–CIO decided that we were going to do something about it. At that time 20 percent of our contracts contained our model nondiscriminaion clause which reads as follows:

"The company agrees that it will not discriminate against any applicant for employment, promotion, transfer, layoff, discipline, discharge, or otherwise because of race, creed, color, national origin, political affiliation, sex, or marital status * * *"

The main problem then is the main problem today. Management generally continues to hold tenaciously to its position that hiring policies and practices are solely management's prerogative.

Although every one of the UAW–CIO contracts contains provisions prohibiting discrimination against employees in the shop, it was our desire, through collective bargaining to incorporate the entire model antidiscrimination clause quoted above in every UAW–CIO agreement. It is now written into more than 80 percent of our agreements.

But the tragic sticking point in too many negotiations is that management still refuses to include that portion of the model antidiscrimination clause which says, "the company agrees that it will not discriminate against any applicant for employment." The majority of managements all over the country has categorically refused to place this provision in the collective-bargaining agreements.

A sample of how legislation expedites education

In concluding the citation of efforts by the UAW–CIO in fighting for justice at the hiring gate, and the shop, union, and community we should like to point out the impact upon an employer in a community where FEPC has been enacted into law.

In Pontiac, Mich., after the recent enactment of a local FEPC law, the management of a certain large corporation, recognizing that it had long been hiring Negroes into classifications that were not commensurate with their skills, apparently had a guilty feeling and decided that it would poll the departments in which Negroes were employed to find out if any were desirous of going on to jobs in keeping with their skill. Mind you, the union had on repeated occasions insisted that Negroes should be hired without discrimination and on jobs in keeping with their abilities, but the company management took this action only after an FEPC law was put on the statute books.

This shows again that legislation expedites education.

In conclusion, we repeat: We can make more progress, and at a faster rate, with the help of an effective Federal FEPC. In today's world we cannot afford delay in establishing justice on the job throughout the United States.

XI. A CHECKLIST OF REASONS WHY FEPC IS NEEDED NOW

The need for an effective Federal FEPC is greater and more urgent now than it has been in the past 10 years, not because injustice on the job front is greater, but for these, some of them seemingly paradoxical, reasons:

(1) Because the spread between the incomes of white and nonwhite families, which had narrowed during the wartime FEPC, has widened again since;

(2) Because since 1947 the number of States having enforcible FEPC laws has increased from 4 to 11 and the number of cities having enforcible FEPC ordinances has increased to 36. This progress, giving most relief where least needed and no relief at all where most needed, has sharpened the contrasts, the double standards and the feeling of wrong and bitterness among those who suffer most discrimination.

(3) Because unemployment and the requirements of automation make the need for FEPC and better educational opportunities more acute;

(4) Because, as stated in section I of this statement, members of minority groups and millions of other citizens who are in earnest about abolishing discrimination in employment after being told year after year that the remedy is in (*a*) education, or (*b*) State FEPC laws, or (*c*) local FEPC ordinances, we who are in earnest about abolishing discrimination have, with few exceptions, been defeated by combinations of disproportionate representation in State legislatures, local prejudice, false propaganda, and fear of interstate or intercity competition;

(5) Because, today, in 1955, as in every year since World War II, our loss of moral standing and leadership among the members of the United Nations that results from the continuing shame of injustice on the job front in hiring and in upgrading, promotions, seniority and all the other necessities for industrial democracy is greater than it was 8 years ago, when the facts about discrimina-

tion in employment within our borders were not as well known throughout the world as they are today;

(6) Because white dominion is dead or dying everywhere in the world, not only in Africa, but also here in the United States.

The CHAIRMAN. We have with us a Member of the House, Mr. Frank E. Smith, Representative from Mississippi. We would be very glad to hear from you.

STATEMENT OF HON. FRANK E. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Chairman, if it meets with your permission I would like to have my statement made part of the record and I would give, briefly, part of it.

The CHAIRMAN. Permission is granted.

(The statement of Hon. Frank E. Smith is as follows:)

I could talk at length of the very real dangers to our true civil liberties and personal freedoms involved in this so-called civil-rights bill, but I will confine this portion of my remarks to some of the major inconsistencies involved in the bill.

Despite the high-sounding phrases embodied in the official statements issued in support of the proposed legislation, it is unfortunately, all too true that the purpose of the legislation is clearly to the contrary. No section of America has been singled out with such clarity as has the South.

There is no need for new civil-rights legislation. Already upon the statute books are numerous protective enactments in the field. In fact, this is one of the larger sections of the United States Code. A list of only some of the civil-rights statutes includes the following:

1. Every person deprived of his rights under the Constitution and laws, under color of any law, is given a civil remedy against the person committing the injury (Rev. Stat., sec. 1979, title 42, ch. 21, sec. 1983).

2. No person to be excluded from jury service on account of race or color, and any person charged with the duty of selection of jurors who so discriminates shall be subject to court action (title 18, sec. 243).

3. Relief against persons conspiring to interfere with individual civil liberties, covering every imaginable conspiracy in the civil-rights field (Rev. Stat., sec. 1980, title 42, ch. 21, sec. 1985).

4. Civil action provided for against any person who, having knowledge of any wrong conspired to be done or about to be done, who neglects to prevent the same, this right of action extended to legal representatives of any killed through such conspiracy (Rev. Stat., sec. 1981, title 42, ch. 21, sec. 1986).

5. Jurisdiction of Federal district courts of matters set out in civil and criminal civil-liberties statutes (Rev. Stat., sec. 722, title 8, sec. 492).

6. Marshals and deputies required, under penalty of fine when action by aggrieved party brought, to issue all processes required, payment for officer's services in such cases (title 42, ch. 21, sec. 1991–2).

7. President empowered to direct judges, marshals, and district attorneys to conduct speedy trials in relation to alleged violations of civil liberties (Rev. Stat., sec. 1988, title 42, ch. 21, sec. 1992), and to employ the land or naval forces or militia to aid in the execution of judicial processes.

The chief Federal law-enforcement agency, and, it follows, the agency most directly concerned with the civil-liberties violations, the FBI, did not recommend this new legislation; the attorneys general of the various States have not requested such. There has been no showing of any law-enforcement agency, National or State, other than the Attorney General, Herbert Brownell, who came at the direction of President Eisenhower, requesting anything new in this field.

Without giving any clear reason, or citing specific cases that call for this, the proposal presupposes a mass violation of civil liberties and offers a far-reaching solution. There is no need for such.

POWERS GRANTED THE ATTORNEY GENERAL

The bill grants to the Attorney General discretionary power never before considered. The important enforcement authorities, as proposed in the bill, granted to the Attorney General are:

1. He may apply to the Federal court for an order requiring recalcitrant witnesses to obey a subpena of, or produce evidence for, the temporary Commission on Civil Rights (sec. 104).

2. He may institute civil or other action to enforce the provisions of the civil-liberties statutes for the United States or on behalf of individuals. This allows him to institute civil actions or other proceedings for redress, preventive relief, temporary injunction, restrictive order "or other order," and recover damages "or other relief" for the party in interest. This he may do without the consent of the party involved, and it could also be without his knowledge. There is no requirement that he exhaust the administrative remedies or other remedies of the various States (pt. 3 of the bill).

3. He may institute civil or other actions, for the United States or in behalf of an individual, for the redress or preventive relief in connection with selection of candidates or the election of Federal officers.

This is, of course, the crux of the bill. This is the reason for requesting an additional Assistant Attorney General. It is actually putting great judicial power in the Attorney General's hand.

It has been suggested that the proposed authorization, while it may afford an opportunity to the Attorney General to exercise discretion, does not argue necessarily that an independent judiciary will issue an injunction or mandatory order merely on the basis of whim, or assume jurisdiction in a case presenting no justifiable issue. It is also contended that this section merely provides a new remedy to secure the rights presently protected by the statutes. The majority report states that this section is not intended to expand the rights presently protected, but will add "flexibility" to the present Federal protection. The latter statement is a nice-sounding play on words, which actually means what it doesn't say.

As to the wise or unwise use of the Attorney General's discretion, it does not suffice to say that the courts will not allow a misuse of this right. This merely rationalizes, but doesn't justify, the grant of power. The courts may be more temperate and require some substantial evidence before they grant any kind of order, but this does not mean that the Attorney General or his representative couldn't instigate the action in the first place. The mere bringing of a suit, whether it is successfully prosecuted or not, is harassment to the defendant. Even if it could be assumed that this power will not be abused, it would still exist.

It does not take too much thought to see that commands to appear either as a defendant in a suit brought by the United States in the name of an alleged aggrieved person or as a witness before the proposed Civil Rights Commission upon information supplied by some of the unpaid assistants which the Commission is empowered to use could be as effective as a court order.

We are told that this will not be abused, that the Attorney General and the Commission will not engage in a witch hunt. But if it is abused just once, it is abused far too much, and so long as it is on the statute books, the possibility of its abuse is too threatening to be considered as merely adding flexibility to the civil rights laws. The continued effort by supporters of this legislation to give assurance that there will be a calm and judicious use of this discretionary power only serves to show that there is need for concern. If we are to believe that this power will not be used, then why the need for it?

One of the important grants would allow the Attorney General or his designee to bring extraordinary action against persons whom he thinks are "about to" engage in the prohibited activities. There are no explanations as to how the Attorney General will determine that a person, or persons, are "about to" conspire or commit a prohibited act. What sort of evidence will the courts require from him when he requests a cessation of some act that a person is "about to" do?

The question is not as facetious as it might sound, nor is it too much to say that this borders dangerously on the area of thought control. There has not been too much comment on this section of the bill, but section 121, second paragraph, clearly contains such a provision. There is a world of difference in the right one has to the protection of his person and property and giving a third person the right to bring an action against someone whom, he thinks, might infringe upon the rights of another.

Where will the Attorney General get his evidence for those who are "about to" engage in prohibited activities? One way might be to have his paid-by-tax-money attorneys go about the country—i. e, the South—investigating what people plan to do. Another would be to utilize the services of the organizations listed in the report on the bill (such as the NAACP), who are thoroughly familiar with certain alleged phases of investigation. At any rate, it isn't a pretty picture to contemplate; legislation that could ultimately violate more rights than is alleged it is intended to protect. The bill is an uncalled for abdication of our real civil liberties to political expediency.

CONSTITUTIONALITY OF CIVIL RIGHTS LEGISLATION

Part III of the proposed bill amends section 1890 of the Revised Statutes. This statute was part of the civil rights legislation passed shortly after the war for southern independence had ended. It has never been directly tested for its constitutionality, but many of its companion sections have been struck down. It was quickly settled that these statutes, passed pursuant to the 14th amendment, were invalid where they sought to protect the Federal Government in private civil suits (*Civil Rights Cases*, 109 U. S. 3 (1883)). Speaking in regard to section 1 of the 14th amendment, Mr. Justice Bradley, in rendering the opinion, stated:

"It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment * * *. It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers, executive or judicial, when these are subversive of the fundamental rights specified in the amendment * * *" (id., p. 11).

* * * * * * *

"* * * The wrongful act of an individual, unsupported by any such (State) authority, is simply a private wrong, or a crime of that individual, an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress. An individual cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the courts, or to be a witness or a juror, he may, by force or fraud, interfere with the enjoyment of the right in a particular case, he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow citizen; but unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right, he will only render himself amenable to satisfaction or punishment; and amenable therefor to the laws of the State where the wrongful acts are committed * * *" (id., p. 17)

This rule still stands, as is indicated in *Shelly* v *Kraemer*, 334 U. S. 1 (1948), where the opinion states:

"Since the decision of this Court in the Civil Rights cases * * * the principle has become firmly embedded in our constitutional law that the action prohibited by the 1st section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful."

Distinctions have been drawn between those rights a person has based on the Constitution and the Federal Government and those rights which are derived from the States. The "national rights" are limited in nature, whereas the State-derived rights of a citizen are far more broad. The Supreme Court has held that, so far, only the following are considered "national rights," which have been distilled from the construction of the criminal counterpart of the civil liberty conspiracy statute:

1. Right to vote in a Federal election (*Ex Parte Yarbrough*).
2. Right of a homesteader to remain on land to perfect title under the Homestead Act (*United States* v. *Waddell*).
3. Right to be free from violence while in custody of United States marshal (*Logan* v. *United States*).
4. Right of a citizen to inform the United States authorities of a violation of Federal law (in re Quarles).
5. Right to move freely from State to State (*Crandall* v. *Nevada*).

6. Right of assembly to petition Congress (*United States* v. *Cruikshank*).
7. Right of citizen to resort to Federal court (*Terral* v. *Burke, Commissioner*).
8. Possible right to discuss national legislation and the benefits thereof.

The area and bases of plenary congressional power to legislate on the subject of civil rights are limited largely to the selection of candidates and the election of Federal officers, and to the government of the Territories, possessions, and the District of Columbia. Aside from areas and bases such as these, the Civil Rights cases still stand for the proposition that Congress lacks constitutional power to legislate with respect to the action of individuals. That power, under the 10th amendment, was reserved to the States.

How does the act violate these principles? It authorizes a special commission to conduct investigations under rules in which the Attorney General can intercede, where there is contumacy of witness. Unless the Civil Rights cases are overruled or modified, the authority of the Commission to investigate "social" developments constituting a denial of equal protection of the laws under the Constitution by use of compulsory process is more than doubtful. There must be a basis for jurisdiction under congressional investigatory precedents (*U. S.* v. *Rumely*). The bill authorizes intercession by the Attorney General whenever there is a belief that "any right or privilege of a citizen of the United States * * *" is being violated. This means more than just "national" rights or privileges. It is a most dangerous situation where Congress has enacted a broad, ambiguous phrase which, if literally applied, will extend the Federal power to an area in which it was never legitimately supposed to operate.

We will solve no problems if this bill is enacted into law—we will merely create new ones. It will protect no civil liberties, but it will greatly endanger basic individual freedoms which are an inherent part of our constitutional system.

Mr. SMITH. I want to especially emphasize today just as strongly as I possibly can, my very sincere belief that this legislation or similar legislation in this field cannot achieve the announced purpose for which it is presented.

All the history of our country and virtually the history of representative government makes clear that great social issues such as these cannot be resolved by legislative action.

From our own recent history, the story of the 18th amendment is an example of a great legislative failure in this field, which merely compounded a problem rather than provided a solution.

When the 18th amendment was adopted, there is no question but that the great majority of the people of the country believed that it would be a step toward a solution of a great social problem. The operation of the law, however, made it clear that with the large segment of the population unsympathetic and resistant to the proposal, the Federal law merely made a bad situation worse.

We can make no progress toward a goal of peaceful relations between the races that allows full opportunity for every person in the atmosphere of distrust and suspicion that would be further fermented by enactment of these proposals. The mere agitation for the proposals has served to further muddy the waters of human relations between the races.

In the light of the long-range interests of our country and the goals which we seek for all our citizens, I think the committee could well restudy the doctrine of concurrent powers so ably propounded more than a century ago by John C. Calhoun. Calhoun's theories have unfortunately been obscured, because he is remembered today chiefly for his defense of slavery.

The concurrent powers doctrine, however, is completely applicable to the present Government of our country. The majority should rule, but its rule must be acceptable to the minority if the operation of our Government is to be successful.

If our objective is to help to achieve greater progress for our Negro citizens, without penalty to any other group, that progress must be made within a framework of mutual understanding. Passage of this legislation will serve to make the task far more difficult.

We will solve no problems if this bill is enacted into law—we will merely create new ones. It will protect no civil liberties, but it will greatly endanger basic individual freedoms which are an inherent part of our constitutional system.

Mr. Chairman, I think that we have in the past few years, not only in this field but in other fields, gone too far in our idea that we can meet common objectives by some legislative enactment or some resolution through law.

We all have, for instance, an abhorrence of communism and all of us are interested in trying to work out some program to eliminate any possible threat of internal subversion. Yet sometimes proposals have been made to us and we have had them before us in the Congress, that would go too far in their check of individual liberties in our effort to eliminate any threat of Communist subversion.

I think the same dangers are involved here. In our effort to meet what is considered a proper goal and eliminate certain undesirable developments anywhere in the country, that we are taking steps that have a greater threat to liberty than anything that could possibly be going on at the present time.

It is an easy matter to say that the way to solve all these problems is to pass a law. The great strength that we have against subversion or any type of outside threat to our country is the greatness of our system of government and the economic system under which we live. Basically that has to be the theory of the system under which we defend ourselves and make further progress to any type of full citizenship for all our people.

The problem cannot be resolved by law in a field like this. I hope in its consideration of this legislation that the committee does not accept the idea that any solution will be found by writing something into law. It may sound good, but in its actual operation among the areas where there is perhaps the greatest concern about it, it will do more harm than good.

In a greater sense it will offer a greater threat to individual liberties of all of our people through the types of shackles that would be imposed in an effort, and what is believed to be a method, of securing certain rights. The overall effect of this legislation would in the long run eliminate some of the basic rights that are a part of our American system of government.

The CHAIRMAN. We are always happy to receive the opinions from the gentleman from Mississippi who addressed us just now.

Is Senator Wallace from Alabama here?

Mr. SMITH. Mr. Chairman, I would like to ask on behalf of my colleague from Alabama, Mr. Jones, that he be allowed to extend his remarks at this point in the record.

The CHAIRMAN. At this point he shall have that privilege.

Mr. SMITH. Thank you, sir.

(The statement is as follows:)

STATEMENT BEFORE HOUSE JUDICIARY COMMITTEE IN OPPOSITION TO H. R. 2145 BY HON. ROBERT E JONES, EIGHTH DISTRICT, ALABAMA

Mr. Chairman and gentlemen of the committee, I appear before your committee at this time to express my opposition to H. R. 2145, which is now before you for consideration.

In my opinion, the fundamental issue with which Congress is confronted in considering this bill is whether or not we should consent to intrude the authority of the Federal Government over matters which traditionally and constitutionally have been reserved to the States and the people.

The bill before you provides under title I for the establishment of a Commission of Civil Rights in the executive branch of the Government, for the reorganization of civil-rights activities in the Department of Justice under the supervision of an additional Assistant Attorney General in charge of civil rights, and for the creation of a Joint Congressional Committee on Civil Rights Under title II, the bill provides for amendments and supplements to existing civil-rights statutes, for Federal intervention in determining the right to political participation, and for prohibition against discrimination or segregation in interstate transportation.

The chief advocates of H R 2145 state that they are for this bill, because it guarantees equal protection of the law. Let us quote a very few words from the Constitution on that subject. Here they are:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

So it is clear from the words of the Constitution and from the jurisprudence from time immemorial up to date that the limitations or prohibitions of the 14th amendment to the Constitution is aimed at State action and not upon the acts of individuals. Yet the subject matters that the Civil Rights Commission will investigate are attuned mostly with private individuals' actions.

The creation of this Commission in this bill under title I is inconsistent with the reorganization of the civil rights activities of the Department of Justice headed by a new Assistant Attorney General, since the Department of Justice will proceed on the assumption that all allegations made by the Commission have been proven.

Now, if it is necessary to create this Commission at all, why should we not await its report before reorganizing the Department of Justice under a new Assistant Attorney General and directing this new setup to prosecute?

Title II of H. R. 2145 purports to strengthen existing civil-rights statutes, to further secure the right to vote, and to prohibit discrimination in interstate transportation. The truth of the matter is that if these provisions of title II are enacted into law, they would constitute a flagrant violation of States rights. They would result in further concentration of powers in the Federal Government They would result in investing in the hands of the Department of Justice unprecedented powers and would result in intruding the Federal Government in matters which under our Constitution are presently reserved to the States and people. This bill speaks of the right to vote as though the Federal Government has unlimited and exclusive jurisdiction in that area. The law is exactly the reverse because we all know that the time and place and manner of elections and the qualifications of persons voting are matters within the jurisdiction of the several States. It has been passed on by the Supreme Court in the case of Minor against Happerset in which the Court held that under the Constitution women had no federally protected right to vote and it required a constitutional amendment to grant that federally given right. The President has proposed that persons 18 years of age should have the right to vote but he wants to do it by constitutional amendment. So the Federal constitutional limitation in this area means this and this only—you have to start with the premise that the States have the right in matter of qualification of voters. Once this is done, then the 14th and 15th amendments step in and prohibit discrimination. Stated differently, the States provide the rules and the 14th amendment forbids discrimination in the application of the rules. However, according to H. R. 2145, Congress is entering boldly into this entire area of voting and voting rights.

The right of the Department of Justice to intervene under this bill in matters of legislation is not restrained. Under this bill the Attorney General can file

suit when a person is about to engage in an attempt to do something. He can foresee when a person is about to engage in an attempt to threaten. When is a person about to engage in an attempt to threaten? This is not direct action, an attempt is not direct action, but to engage makes it worse. Still the Attorney General, under this bill, may proceed when a person is about to engage in an attempt to threaten.

I certainly share the view of those who have recently testified before your committee and who maintain that the passage of this bill would shake the very foundation of law enforcement by subjecting States to Federal supervision and making local police afraid to arrest people. This bill could very well lead to a national police force and seriously impair the morale and efficiency of State and local police. It would be an open invitation to any complainant to circumvent local governmental facilities by dealing directly with Federal authorities merely by claiming that some civil right is endangered or violated.

It is my carefully considered opinion that the Department of Justice and the Federal courts of this country now have ample authority under the Constitution and existing laws to protect the rights and privileges of all our citizens, no matter what their race, color or creed may be. Further efforts to pyramid Federal authority in the field of civil rights will only serve to foment further strife and discord among our citizens. We do not need at this time to continue to incite race against race through retaliatory measures against the white citizens of the South.

The CHAIRMAN. Judge Wallace?

STATEMENT OF JUDGE GEORGE C. WALLACE, CLAYTON, ALA., JUDGE THIRD JUDICIAL CIRCUIT OF ALABAMA

Judge WALLACE. Mr. Chairman and members of the committee, I want to first thank you for the opportunity to testify and to say that I enjoyed my service with the distinguished chairman in Chicago on the platform committee of the Democratic National Convention. We differed on many matters there, especially on the matter of civil rights, but I found the chairman fair and willing to listen to arguments of we people from the South, and I enjoyed my service with him very much.

By virtue of the fact that I was elected by the Alabama delegation to that convention and served on the platform committee which was especially concerned with the matter of civil rights and also as judge of the third judicial circuit of Alabama, which is a court of original jurisdiction in which half the population is Negro, I do have some matters that I want to say to this committee regarding the legislation at hand.

For a day or so or several days, briefly I want to say before I get into a few matters on the bill—and I am going to hurry my testimony as much as possible, Mr. Chairman—here, as in many places, much invective was cast against the peoples of the South to the effect that many peoples there were lawless and the fact that in some instances we were in a virtual state of insurrection.

I want to say that as a member of the Democratic Party—and maybe some of the Republican members of this committee might not agree—I think the economic reforms of the early New Deal days had more to do with the economic status of the minority people of this country than all the legislation placed on the statute books of this country.

Mr. Roosevelt on many occasions told Senator John Sparkman, or at least told his sons who told Senator Sparkman, that had it not been for southerners in the Congress of the United States in the early New Deal days there would never have been placed on the statute books

the economic reforms of the New Deal which has inured to the benefit of minority groups more than any legislation ever placed there.

Yet, not one single syllable of commendation for southern Congressmen in this regards has ever come to this committee hearing or other hearings on the same subject from the radical elements. They have never given any credit to the people of the South for the great things they did for minority groups economically. I do not impugn the motives of this committee. I am sure the motives of the chairman and others are fine and high.

We feel you are mistaken. I would tell you as a factual matter that the peoples of the South do consider this legislation antisouthern even though the word "southern" is not mentioned in the legislation. We have come to the point where the peoples of the South really seethe with indignation at the time spent on the matter of so-called civil rights here in the Congress.

In fact, we have come to the point in the South that we feel that some Members of this Congress actually feel that the peoples of the South are an enemy of this Government. I know that the chairman probably remembers my personal attitude on the matter of race relations expressed in Chicago.

I must necessarily bring the matter of race relations into this discussion because that is what the whole matter is predicated upon, the matter of segregation and race relations in the southern part of the United States.

Mr. KEATING. May I interrupt, Judge, to say that I have never heard any northerner express any antisouthern sentiments. The only sentiments I have heard expressed is what you said, that this agitation in the North arises from some antisouthern feeling.

I can assure you that in the minds of most of us who are interested in this type of legislation there is asbolutely no basis for that whatsoever. I have just attended a funeral of a very dear friend of mine from North Carolina. There is in my heart, as the author of the administration bill, nothing whatever of that kind of feeling.

It is just that we have a different viewpoint from you. I repeatedly hear southerners say that it arises from something of that kind. Let me assure you, and you have, I am sure, a judicial temperament, that there is no basis for that at all.

Judge WALLACE. Before you came in, Mr. Keating, I said I did not impunge the motives of the authors of this legislation. I was sure that they were sincere and conscientious in its introduction, as I am sincere in my opposition. I also said that I did not say that it was necessarily antisouthern. I said as a factual statement the people of the South consider it antisouthern.

Even though this may or may not be the case, the fact is that southerners do consider the legislation antisouthern. I think it would be very hard for the author of this legislation or any Member of the Congress to so convince the peoples of the South that it was not antisouthern.

Mr. KEATING. That is very unfortunate.

Judge WALLACE. I was saying that I had never made—and I hold a public office by a vote of the people of my district and I was elected as a delegate twice to the national conventions by the people of my district—a public utterance against Negro people or any of God's children and I do not ever intend to do so. It is politically inexpedi-

ent to make speeches in the South inciting racial hatred and feeling. I hope it will always be that way. If it ever becomes necessary in my section, and I do not believe it ever will, to incite racial hatreds and feelings in order to be elected to public office, this is one witness that will never be a candidate for public office in my part of the country.

The segregation matter is concerned. We have heard so much testimony about sinfulness and immorality and the fact that segregation was bad. I would concede to this committee that if the separation system of the races in the South was based upon hatred, ill will, malice, or racial prejudices, it would be sinful, because anything based upon hatred, ill will, or malice is sinful.

But the segregation system in the South, and that is the whole crux of this matter, in my judgment, is based upon the feeling in the great majority of the peoples' hearts in that section that the separation of the races is for the best interests of all concerned. There is nothing wrong, there is nothing sinful or immoral about a system based upon what you believe in your heart to be for the best interests of all concerned.

We also think that some people—and I am not saying that the members of this committee are—are hypocritical about this matter. We have had the courage in our section to tell the whole world that we believe in the separation of the races and we think it is for the best interests of all concerned.

We have had the fortitude to include it in the laws of our States and our customs and traditions. We, in other words, practice and preach the same system. Yet we find in other sections of the country, for instance the report of the board of education in New York the other day which said integration ought to come to New York City in the school system, and that it was deplorable that segregation still existed in New York City.

We feel that people in some sections preach one system and practice another. We have always been taught in my section that when it comes to talking about the religious angle of this matter the very antithesis of Christianity is hypocrisy.

Mr. HOLTZMAN. You also heard that in New York the reason for whatever segregation does exist, if it can be called that, is not because of some design or plan. It is because of an economic situation. Did you hear that, too?

Judge WALLACE. I heard that statement, Mr. Congressman, but it seems to me that it always works out in the bigger cities in the North and East that segregation is there. Of course, you try to explain it by saying it was not planned. But the fact remains that you do have segregation, and I think you are going to have segregation at the next session of this Congress in New York City, too.

Mr. KEATING. In the city from which I come, for instance, in the schools there is no segregation. The young children all go to the same school where they live.

Judge WALLACE. I am sure that is true in many sections. I was speaking about the biggest metropolitan area in the country and a report the other day that came out to that effect.

The CHAIRMAN. There is no doubt about some segregation. It is not by statute. It is not by a desire of New York people. In Harlem,

for example, where most of the Negroes have congregated, is is only natural that the school up there would be predominated by the Negro.

We are trying by our slum-clearance projects to scatter the Negroes all over the city so that there would not be any such segregation. We are making appreciable progress in that regard.

Judge WALLACE. Mr. Chairman, believing in local control, and believing in States rights, and believing in the right of local people to ascertain themselves what system they desire, if the people of New York want to scatter their colored population and integrate, that is all right with me because I believe the people of New York ought to do that which they want to do. I also feel that the desires of the great majority of people in other sections should be considered. The economic and political and social necessities should be recognized in Alabama the same as you recognize those in New York.

The CHAIRMAN. I would like you to identfy this ballot. I think it was used in Alabama.

Judge WALLACE. Do you think my name might be on it?

The CHAIRMAN. Was that a ballot used in your State; the White Supremacy Party?

Judge WALLACE. Yes, sir, Mr. Chairman.

The CHAIRMAN. The ballot speaks of a White Supremacy Party with the head of a chicken as a symbol.

Judge WALLACE. That is a rooster, Mr. Chairman. I have always marked my ballot under the rooster, too, Mr. Chairman.

The CHAIRMAN. Did you run on that ballot yourself? Not on that particular one. Did your name appear in the columns of any of those ballots?

Judge WALLACE. Mr. Chairman, anybody who runs in Alabama that gets elected runs on this ballot, the same as the United States Senators and Congressmen, and the Governor because this is the Democratic primary ballot.

Mr. KEATING. That is not a primary ballot you have.

Judge WALLACE. No; this is a general-election ballot.

The CHAIRMAN. That is a general-election ballot?

Judge WALLACE. Yes, sir; I have been elected on this ballot.

The CHAIRMAN. With the words "White Supremacy" with the rooster as a symbol?

Judge WALLACE. Yes, sir, Mr. Chairman.

The CHAIRMAN. Do you think that is to be approved in the light of all the things you tell us?

Judge WALLACE. I am not a member of the Democratic executive committee of our State, but under the laws governing primary elections in Alabama it is the right of the executive committee to place any symbol they want to in identifying the Democratic Party. That is their business and I accept it. I am not a member of that committee.

Mr. KEATING. Do you approve of it?

The CHAIRMAN. You ran on that kind of a ballot?

Judge WALLACE. Yes, sir.

The CHAIRMAN. That is tantamount to approval, is it not?

Judge WALLACE. Since you asked me, yes. I approve of this ballot, Mr. Chairman.

The CHAIRMAN. That sort of embeds more firmly segregation, does it not, rather than the opposite?

Judge WALLACE. Mr. Chairman, I do not mean to say anything here that would indicate that segregation is not firmly imbedded. In fact, it is firmly imbedded and I am for it being firmly imbedded. I want to be perfectly frank with the members of this committee.

The CHAIRMAN. I just want to bring out the fact, also. Judge, did you at any time while you were officiating as judge threaten to arrest any FBI agents if they made any civil-rights investigation within your jurisdiction?

Judge WALLACE. Mr. Chairman, I made a statement that was not in keeping with the question that you asked. I was going to make a statement similar to that but not with any threats.

I did make the statement that, if the Federal Bureau of Investigation or Federal police came into my circuit, the same as they came into Cobb County, Ga., city of Marietta, Ga., with an order from Mr. Herbert Brownell that said, "Turn your jury box over to these FBI agents and let us have your jury box"—and the FBI took the jury box in Cobb County, Ga., and sat in the courthouse and opened it and checked the names, ages, color, and the occupation of every single member in that jury box, which is the most unheard of thing that a State judge ever heard of—I made the statement, when it was rumored around that they may do that in one of the counties in my judicial circuit, that I would order the arrest of any Federal agent who came into my court and demanded the jury box of my county, because he had no right to do it and he would be in contempt of court. That statement still stands.

The CHAIRMAN. Let us continue that a minute, Judge. The FBI is an arm of the Department of Justice, which Department must enforce the laws of the United States.

Judge WALLACE. Yes, sir.

The CHAIRMAN. We have certain statutes on the books with reference to civil rights. We read in the record some of those sections of the old statute that goes back to 1870. You are familiar with those statutes, I take it. They concern the violation of constitutional rights.

If the FBI is sent down there to investigate whether or not there have been violations of that old statute, do you not think that they have a perfect right to go in there and investigate, and if necessary, to examine into the nature of voting if the charges are that voting rights were violated? If the laws were violated, would the FBI not have a right to go into your State to do that?

Judge WALLACE. Of course, the FBI would have a right to investigate the violation of civil-rights matters if I, as an individual, violated the civil rights of a person, of course, the FBI could make an investigation. The FBI has no right to investigate my judicial actions nor my court.

You are talking about investigating the violation of civil rights by individuals. But when a court, a sovereign State court, a court of original jurisdiction that has the jurisdiction under the constitution and laws of the State to the electric chair criminally and to the sky civilly——

The CHAIRMAN. I am not speaking of violation of civil rights. Unfortunately that old statute does not cover that. I am speaking of violations of civil rights by State officials and others under cover of law. That is what they were investigating at that time.

Judge WALLACE. No, sir. They were investigating the jury box and the court itself, which the FBI has no right under any authority to do.

Mr. KEATING. To determine whether Negroes were systematically excluded from jury duty.

Judge WALLACE. That is right.

Mr. KEATING. And upon which the Supreme Court of the United States based a reversal of a conviction. You cannot let every Negro who commits a crime go scot free because Negroes are systematically excluded from those juries. If your position was maintained that the FBI could not investigate into such a charge, it would mean that a Negro would be free in those Southern States to commit any crime he wanted to and nothing could be done about it if he took his case to the Supreme Court.

Judge WALLACE. The redress is appeal, not FBI investigation. Whenever a State court or a circuit judge has proceedings in his court that violate the constitutional rights of any individual, and if you have systematically excluded Negroes from the jury box, and that is shown, then the redress for that individual is an appeal to the courts of this land, not for police investigation of the court itself.

The CHAIRMAN. How can they discover the facts unless the FBI goes down there? Somebody must determine what the facts are.

Judge WALLACE. Mr. Chairman, by motion to set the verdict aside or quash the venire, by a motion to subpena witnesses and ask them under oath are there any Negroes in this box. By the taking of testimony in the legally constituted manner.

The CHAIRMAN. You must discover those facts and you must present them to the court. It is the duty of the FBI as an arm of the Government to find out. I think it was rather highhanded of you, Judge, to do or say that.

Judge WALLACE. Mr. Chairman, I thoroughly disagree. Surely the proper officials have a right to find out who was in the jury box and how many. But the proper course was to have had a hearing before the judge; and when the judge was sitting there on a motion for a new trial, questions could be asked the jury commissioners, and they could be subpenaed there; and the judge could open the box and look into it. Testimony should be given—discovery of errors in a judicial proceeding should be through judicial proceedings and not through the executive branch of Federal Government by police investigation.

If the judge discovered that there was a systematic exclusion, he would give a new trial. If he did not give a new trial in light of the evidence, then the Supreme Court of the United States could reverse it.

But whenever we can get to the point where, when we think that the courts of a State have violated the civil rights of an individual and we are going to send the Federal police to take over the county courthouses, then local government is gone in this country forever.

The CHAIRMAN. This is a case where those charged with the jury system had been charged with dereliction. I believe the FBI had a perfect right to go down there. I think it was most improvident for you to make that statement because that has the effect of intimidation, not necessarily against the FBI, but against others who may have the courage to complain.

It was just statements like those you made, Judge, if I may say so, that caused the bitterness here which is the basis of much of this

attempted legislation. I think in the future you ought to be very careful.

Judge WALLACE. Mr. Chairman, I take issue with the fact that my remarks were improper because in my judgment they were not improper. I would like for you and the committee to know that my statement was made as a judicial officer, and I was speaking about procedure. I take issue with you on the FBI right to investigate in the case we have mentioned. They have no such right.

I did not make any statement against any race of people or any group of people and never intended to do so. Any vigor that I have——

The CHAIRMAN. I did not say you made a statement against any people. I only asked if you made the statement about the FBI checking and investigating in your area, and you admitted that you did make a statement of that character.

Judge WALLACE. Yes, sir, and I still stick with that statement.

The CHAIRMAN. We are very happy that you have been very frank about it. But I think you ought to go a little further and probably admit that you were a little bit intemperate in your statement and you might check yourself in the future. I say this in all kindness.

Judge WALLACE. I know that, Mr. Celler, because I know you and I became acquainted with you in Chicago. Mr. Celler, I do not think that statement, as far as intemperance was concerned, was intemperate. It certainly was not as intemperate as the intemperate action of the FBI in taking over the county courthouse in Cobb County, Ga. If you check the civil rights statute you will find they had no right to do what they did in taking over a jury box in that State and looking into it. That was not the proper redress, and I do not believe that even the Supreme Court would tolerate that.

Mr. KEATING. That statement about taking over the courthouse is just the kind of inflamatory statement that is made without any justification whatsoever by so many spokesmen such as you. There was not any effort by the FBI to take over a courthouse in this case. It was an effort to examine certain names in a jury box to determine the facts upon which there might be a possible violation of the Federal statute.

When you take your oath of office, is there included in it an oath to uphold the Constitution of the United States?

Judge WALLACE. That is right, Mr. Keating. I want to say it is a matter of opinion about the matter of inflamatory statements. My statement has not been nearly as inflamatory if it was inflamatory, as charges and statements that have been made here heretofore against our section of the country, against our people.

I have made no statement inflamatory against any people. But the proponents of this measure have stood here and made inflamatory statements against the white people of the South.

I have made no statement against the colored people because I am the author of the bill that built the largest trade school for the Negroes in the South. I have served on the board of trustees of Muskegon Institute and I have been cited for my work.

I am proud of it and I am frank to tell that. I served with Basil Chambers in New York for 3 years on the board of that fine institution in Alabama.

Mr. FORRESTER. Mr. Chairman, I do not want to interject myself into the controversy at all, but I am wondering if the chairman, the members of the subcommittee, and the witness have given consideration to the decision of the United States Supreme Court about 2 weeks ago in the case of *Gold* v. *The United States*.

It is my recollection that conviction of Gold was reversed on the identical principle that the gentleman has announced. That occurred about 2 weeks ago.

The CHAIRMAN. It is not a question of reversal or conviction.

Mr. FORRESTER. It is to sustain the position.

The CHAIRMAN. It is a question of the statement made by the judge which I think to be rather inflamatory. I do not think you will make those statements again.

Judge WALLACE. As I said, I take issue with you and I do not agree with you on that and I cannot tell this committee that I am not going to make any statements like that again because I do not consider them inflamatory as you do. However, I know you respect my viewpoint in the matter as I respect yours. But if the situation arises in my circuit I shall admonish the FBI against any unlawful investigation of State judiciary.

The CHAIRMAN. Go on with your statement.

Judge WALLACE. Briefly, from the economic standpoint of our Negro people in Alabama that should be interjected here, professional Negroes have more opportunity in my section of the country than any place.

We have 7,702 Negro schoolteachers in Alabama who draw the same salaries as whites. We have 900,000 Negroes in that State. In New York they have 1,600 Negro schoolteachers with 918,000 population.

Mr. KEATING. Mr. Chairman, this record ought not to be allowed to stand if there is any comparison between the Gold case and the case we have been discussing. That was a case where a conviction was reversed because it was shown by a split decision that the FBI had talked to some jurors during the trial. It did not have anything to do with the situation that we are confronted with here.

Mr. FORRESTER. Will the gentleman allow me to reply to that?

The CHAIRMAN. There is no use to belabor these cases. I am only addressing myself and ask the question concerning a remark made by the judge, regardless of the outcome in the courts and it was limited to that.

You may proceed.

Judge WALLACE. Thank you, Mr. Chairman. I want to briefly—and I am going to hurry along here—say that the so-called civil-rights bills make considerable use of the most drastic of processes that can be issued or invoked from any court, that is, injunctive process. These bills provide that the Federal judge decides when an injunction should issue and decides whether or not it is violated and the punishment to be meted out.

The most fundamental of civil rights is trial by jury and today there are on the statute books, acts providing for criminal punishment for those who violate another's civil rights.

However, these rights in effect, say that we have no confidence in southern people sitting on Federal juries to try those charged with the violation of a civil rights of an individual.

Therefore, in civil-rights cases these bills would abolish the most fundamental of civil rights, that of trial by jury in these cases and substituting therefore, the most drastic writs, that of injunctive process.

These bills would bring about in my judgment in America a new concept of government, government by contempt. These bills will destroy civil rights in this country and in my judgment, and I hope you will not consider this an intemperate statement, will help build up a judicial tyranny more than anything that has even been proposed.

In my judgment these bills will make virtual judicial dictators of the Federal judges in this country.

The CHAIRMAN. Have we got that now under the Supreme Court desegregation cases and injunctions have been issued? Quite a number have been issued and there are no jury trials in those particular instances.

Judge WALLACE. Yes, sir; that is true.

The CHAIRMAN. Would it not be better to have some sort of uniformity flowing from some sort of statute passed by Congress rather than the hit and miss situation that is now developing case by case?

Judge WALLACE. Mr. Chairman, if you are going to try to cure an evil with a medicine that is going to be worse than the disease, the matter of injunctive process, of enjoining everybody—the injunction issued in Tennessee, if you have reference to that, is something that is unheard of—they have enjoined the whole world. They have——

The CHAIRMAN. No; I just addressed myself to the fact that you seemed to imply that we are initiating something new, that is the use of the injunction. We have that now and it is growing widespread now.

Judge WALLACE. It is growing widespread and that is the danger. Injunctive process should not be used to replace trial by jury.

The CHAIRMAN. Would it not be better to have some sort of criteria set up, something in the nature of a Federal statute, which would govern it?

Judge WALLACE. In the matter of civil rights you have the statutes on the books and you provide for criminal punishment. Under these bills you would enjoin a person from violating the constitutional civil rights of an individual. The Constitution says a man has a right to live. You could enjoin a man from killing another. The Federal Government could take over criminal law enforcement in this country under these bills.

The CHAIRMAN. We have those civil rights on the books, an old statute which has been repeatedly referred to, but it is of such a nature because of the ignorance of the rights imbedded in the law on the part of the person aggrieved, because of his poverty and inability to hire a lawyer, because of intimidation or fear, no actions have been brought. All these years the statute has been on the books and no actions have been taken. There must be good reasons for that situation of inactivity as far as action being taken is concerned. All this bill does is to implement by virtue of providing a remedy that the Attorney General shall step in to bring the action. That is all the administration bill does, offered by my distinguished colleague, Mr. Keating.

My bill goes a little further, but I take it you are against all these bills.

Judge WALLACE. Yes, sir. Mr. Chairman, in the statement that the acts have not been used and that there have been civil-rights violations, you are assuming that there has been a mass violation of the civil rights of individuals in my section. Since there have been no suits filed in court, you say we must pass a new act. Has there been any testimony here by individuals themselves who said my civil rights have been violated? I have not heard of any testimony. I have heard of charges. I heard one witness say that in Alabama they asked how many United States Government officials there were; how many employees; when a Negro applied to register to vote. Who asked that question? When and where? And there are 60,000 Negroes that vote in Alabama at this present date. Charges hurled—no evidence to sustain the charges.

The CHAIRMAN. I would be rather naive if I did not believe that there were no violations of civil rights. I certainly am not only able to read what is in the public press but I have been in the South and I know a little bit about it myself with reference to violation of civil rights.

For example, I have a statement here this morning coming from the Christian Science Monitor which reads as follows, with a headline, "Georgia Takes Action To Block Integration":

> The administration of Gov Marvin Griffin, of Georgia, is stockpiling new and powerful legal ammunition for its fight against racial integration in schools and on bus lines.
>
> This is running athwart and counter to a very important Supreme Court decision on desegregation in schools and a number of Federal decisions on desegregation of bus lines.
>
> There separate bills have been introduced in the general assembly by house speaker, and administration leaders, to strengthen the State's fighting potential Legislative observers believe that passage is virtually assured.

I am not going to read the substantive law that has been suggested, but it clearly indicates that this is sort of a confirmation of what has happened heretofore, namely, the taking away of considerable of the civil rights of the population of Georgia relative to transportation and relative to schools.

What has happened in Georgia I presume is not very much different than what is happening in Alabama.

Judge WALLACE. Mr. Chairman, of course you see that the Legislature of Georgia is attempting to solve some of its problems in the matter through the duly elected officials of the State within the executive, judicial, and legislative branches of State Government. There has been no effort at violence. There has been no effort at intimidation. You are prejudging the bills as far as their constitutionality is concerned because the Supreme Court decision did not say—segregation was unlawful. The Court said that compulsory segregation was unconstitutional. They did not say that segregation itself was unconstitutional, but compulsory segregation. Those acts themselves may provide for voluntary segregation as the Constitution of Alabama so provides.

The CHAIRMAN. I did not read beyond. I could read the suggestion of the State of Georgia which says that if they do not comply with the statute that is going to be undoubtedly passed, there will be sanctions and there will be penalties. That is compulsion. That is com-

pulsion by fear—fear of sanctions, fear of punishment, fear of going to jail.

Judge WALLACE. Of course, Mr. Chairman, any act, the constitutionality of it would eventually have to be passed upon by the Supreme Court. I would give the presumption of constitutionality to the acts as they were passed as being constitutional until they were tested in the courts. I will say that the people of Georgia and Alabama are doing all they can within the law to prevent integration. I might as well be frank about that. We hope it can be prevented because we believe it is for the best interests of all concerned. We in Alabama have a constitutional amendment that allows you a freedom of choice. You may go to a segregated school, you may go to an integrated school, you can go to a school for all white or all colored or an integrated school. We have a freedom of choice in Alabama.

These bills say in effect southerners are not capable of assuming the responsibility of jurors in Federal courts in civil-rights cases and in effect they say——

Mr. KEATING. What bill says that?

Judge WALLACE. I said that they "in effect" say. I am telling you what I believe the people of my section feel. That is what I feel and that is what the Governor of Mississippi and the rest of the southern witnesses feel, who have appeared here and given similar testimony: That the bills in effect take away the right of trial by jury in civil-rights cases because you don't trust southerners on Federal juries.

Mr. KEATING. I am very much interested in what you as a lawyer feel, a man who sits in judgment on other people. There is not anything in these bills to draw the conclusions which you have reached. I can appreciate how someone unlearned in the law can say that. But a man trained and learned in the law could not possibly make that assertion, even about the Celler bill.

Judge WALLACE. Mr. Keating, I feel as a judge, that these bills are aimed at southern jurors, that you don't trust them when they take an oath and say we will abide by the laws and Constitution of the United States in civil-rights cases. A southerner's oath is as good as the oath of the inhabitants of other sections.

Mr. KEATING. I appreciate your frankness because the fact that you feel that way certainly bears on the weight and value to be given your testimony.

The CHAIRMAN. I think we have been a little unfair to you, Judge. I am going to let you finish your statement before we interrupt more. I am guilty too.

Judge WALLACE. Let me say to you, Mr. Chairman, and to the other distinguished members of this committee and Congress, that you flatter me by asking this country circuit judge from Alabama any question at all. Any questions you have to ask I will try to answer them frankly.

The CHAIRMAN. You go ahead with your statement. We will hold the questions until you complete.

Judge WALLACE. The southern people resent the fact that these bills, in their judgment, are aimed at them and questions their integrity. The passage of these bills in my judgment would affect the relationships between white and colored in the South and if through legislation of this sort you cause the Negro people to lose the good will of white southerners you have hurt the very people irreparably that

you propose to help. I want to bear on this briefly and I will conclude.

So much has been said about our international relations and what people in other nations think about our local traditions and customs. To my mind I think that is purely anti-southern propaganda. However, assume that it is so, what business is it of ours, what local customs and traditions prevail in China and India and Saudi Arabia, and by like token what business is it of theirs what local customs and traditions prevail in this country?

Mr. KEATING. I am bound to say this because I am not going to sit here and say it is not the business of the people of this country as to whether they have a local custom in Communist China, that they are holding 10 of our Americans prisoners there without any justification. I consider that very much my business as an American.

Judge WALLACE. That is not a local custom, in my judgment. That is a political matter. I am just as much anti-Communist as anybody. But whether or not they have 6 wives or 2 wives or whether they have a caste system in India is no business of mine.

Mr. KEATING. I am not going into that. I agree with you.

Judge WALLACE. Our aid to them is not predicated upon their changeing their local social customs and if the only way we can keep certain peoples from embracing communism is to change our customs, in my judgment they will go Communist anyway.

Should not the people of my section and their desires be given some consideration? After all we are citizens of the United States, although many southerners have almost come to the conclusion as I said a moment ago that you consider us an enemy.

Mr. Chairman, you asked me the question about the FBI, I say if these bills pass you have unlimited authority to increase the size of the FBI to any extent necessary, and through allegations of disgruntled individuals you can set into machinery the processes that will eventually bring a man to Washington, subpena him here, and eventually wind up with a contempt citation and jailing him without a trial by jury. I feel that already the FBI in some instances has gone beyond the scope of its duties, as we mentioned a moment ago, in the Cobb County, Ga., case. I will say again that I do not propose to brook in my circuit any unlawful and deliberate interference by the Federal police. I want you to understand, Mr. Chairman, I said "unlawful." I would certainly respond to a court order, to the law, in this or any other matter. I say that if we are going to degenerate in this country under these bills to a government by contempt, then the State courts have contempt and injunctive processes that can be brought into play to protect the peoples of that section of the country. The FBI will make no unlawful investigations of my court while I am the presiding judge. Any unlawful attempt to do so will be dealt with accordingly.

Gentlemen, I want to say that you flatter me by even questioning me. I am sincere in my proposals. I am not anti-Negro, and I want to say that I don't impugn the motives of the members of this committee or the sponsors of this bill, because I am sure you are conscientious and sincere in your proposals, as we are conscientious in opposing them.

Mr. Chairman, I thank you and the members of this committee for your time.

The CHAIRMAN. Thank you very much, Judge. I remember with kindliness our associations together in Chicago. We disagreed, but nonetheless we were always gentlemen.

Judge WALLACE. That is right, Mr. Chairman. I appreciate your saying so and I enjoyed my service with you very much in Chicago. I hope to be associated with you and others again.

The CHAIRMAN. Thank you very much.

We have with us our distinguished colleague from Georgia, Mr. Henderson Lanham. We will be very glad to hear from you.

STATEMENT OF HON. HENDERSON LANHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. LANHAM. Mr. Chairman and gentlemen of the committee, I appreciate the opportunity of testifying briefly before you today in opposition to these so-called civil-rights bills. I am very glad that I was permitted to talk to you for a few minutes after the questions that you just asked the judge from Alabama who preceded me because the incident to which he referred occurred in Cobb County, Ga., which is in my district. I will refer to that as I go along further in my statement.

The CHAIRMAN. Have you a copy of your statement?

Mr. LANHAM. I do not have with me, but I will send them to you.

The CHAIRMAN. It will not be necessary. I thought it might be convenient for the members if you had copies along.

Mr. LANHAM. I am sorry I did not bring them with me. Two distinguished representatives of the State of Georgia are to appear before you today to state in specific details our objection to the passage of this legislation. I am glad to associate myself with these gentlemen and their views. They are the Honorable Eugene Cook, the very able attorney general of the State of Georgia, and Mr. Charles Bloch, of Macon, Ga., a very prominent and capable lawyer from our State. I am familiar with their views on this legislation and want to endorse their statements concerning the position of the officials of the State of Georgia, who, I am sure, speak for the vast majority of the citizens of our State.

Let me say in the first place that I am opposed to all this legislation because it is not necessary and wholly uncalled for. Race relations in the State of Georgia are very good and have been improving rapidly over the years. Negroes are not denied the vote in Georgia, certainly not in the northwestern part of the State, which I represent. The poll tax has been abolished in Georgia and there are no requirements that other taxes be paid before the proposed voter can cast a ballot.

The CHAIRMAN. That is very creditable, that Georgia has taken that action.

Mr. LANHAM. And we let them vote at 18 years, which very few other States do, Mr. Chairman, and the whites and blacks both vote at that age.

The CHAIRMAN. As to that, I am wondering whether that is the proper thing to do, on the 18-year-olds.

Mr. LANHAM. We think we are quite a progressive State. If these boys are old enough to fight, they are old enough to vote.

The CHAIRMAN. I wonder whether that is true, because there comes a time when a man is too old to fight, and then he is too old to vote.

Mr. LANHAM. He might be. You and I might be approaching that age, Mr. Chairman. I hope not. [Laughter.]

Mr. ROGERS. I agree with the judge that I think they ought to vote at 18.

Mr. LANHAM. Certainly no effort is made to prevent their voting in my part of the State and, as far as I know, no other section.

The abhorrent crime of lynching no longer exists, and there is certainly not as much reason for legislation on this subject as there would be for the suppression of gangsters in the large cities of many of the States whose Representatives are urging the passage of this legislation.

In the next place, I am opposed to the legislation because it is an invasion of the rights of the States to regulate their own affairs and will result in the loss of many of the rights guaranteed to the people of the States by the Bill of Rights.

The civil penalties proposed in the bill are really worse than criminal ones would be, for by methods such as used at Clinton, Tenn., recently, persons have been arrested, and under these bills could be arrested and their liberties taken from them by the court without a trial by jury. If there were criminal penalties, however, there would have to be an indictment and a trial by a jury of the person charged with the violation of anyone's civil rights.

This bill does not give a single right to any individual, but concentrates power in the Attorney General, even to the extent of permitting him to bring a suit either for damages or an injunction not only without consulting the aggrieved person but even over the objection of such person. This is an astounding proposal, and if so many were not intent upon passing this bill for purely political purposes, the House would be shocked and would revolt against the bill's passage.

Within this bill are the seeds of a Soviet-type gestapo, of secret informers, and, if the bill should become law, we would be faced with the knock on the door at midnight of the secret and unpaid agents of the Commission set up by this bill and the tools of the Attorney General. We would be jailed without the benefit of trial by jury and at the instigation of faceless informers. The minds of Khrushchev, Bulganin, or Stalin himself could not have conceived a more dangerous surrender of individual power to a Government official, politically minded as our Attorneys General usually are.

I warn you that in reporting this bill you will create a Frankenstein monster that can destroy us all. Power corrupts, and absolute power corrupts absolutely, as it has been said.

No Attorney General should be entrusted with such power as this bill would give him.

The people of my district have tasted the bitter brew concocted of the unwarranted interference by the present politically minded Attorney General, who sent his snoopers into Cobb County, Ga., not to protect anyone's civil rights but to interfere with the administration of the courts of law in that great county of my district. He did this without consultation with, and, I believe, over the objection of the United States district attorney for the northern district of Georgia. He did it upon the insistence of the NAACP, which had interfered

in the defense of a Negro rapist who had twice been convicted of the offense and who was at the time of his last offense of the same sort serving a sentence for one of the previous assaults upon white women. Moreover, the accused had admitted a third such offense and was convicted and sentenced to death, though represented by able counsel appointed by the court, and later had his conviction affirmed by the Supreme Court of Georgia where he was represented by one of the ablest lawyers in the State employed by the NAACP. I want you to know that.

And the snoopers who made the investigation did not confine themselves to an investigation but slyly made suggestions which the officers of the court took to be an attempt to prevent further prosecution of the Negro who, in the meantime, had been granted a new trial by the United States Supreme Court upon a trivial point of law.

That case was still pending at the time that the solicitor general tells me that the FBI snooper made the suggestion to him, "Well, I don't suppose you will try this case again."

I say that the FBI had no business in Georgia in the first place and that the Attorney General is using the FBI for political purposes and he is going to destroy the usefulness of that great agency of the Government if they continue to use it as they did in this case in the Seventh District of Georgia. The solicitor general told me himself that that suggestion was made or it was intimated, "Well, you won't try this man again."

Although it gives me no pleasure to do so, I can now report that the Negro was tried again, was sentenced to death, appealed his case to the Supreme Court of Georgia where it was affirmed, and was executed recently after the Governor had refused to commute his sentence.

The charges of irregularities in the operation of the courts of Cobb County, Ga., were wholly without foundation and the snooping investigators finally made a report clearing the county officials of the charges that had been made against them.

These laws would affect adversely the South today, but they may well be used in the future by politically minded Attorneys General against every one of you and the people of the States in which you live.

In conclusion let me warn you that you had best lay aside any political impulses that might cause you to vote for this bill and kill it here in the committee without forcing those of us who believe that the States still have some rights into a long and bitter fight to protect ourselves from the usurpation of the rights of the States and the denial of the rights guaranteed to all of us by the Bill of Rights of our Constitution, which this legislation would take from us.

Again I want to thank you for your courtesy in hearing me, Mr. Chairman.

The CHAIRMAN. We are grateful to you for your statement, sir. We are always glad to hear from you.

The chairman will put into the record a statement of Mr. Sanford H. Bolz.

(The statement is as follows:)

SUPPLEMENTARY STATEMENT OF THE AMERICAN JEWISH CONGRESS

My name is Sanford H. Bolz, and I am Washington counsel for the American Jewish Congress.

As the representative of 1 of the 22 organizations joining in the statement of Mr. Roy Wilkins of the National Association for the Advancement of Colored

People presented to the subcommitte today, I desire to make a very brief additional statement for the record.

First, I wish to say that the American Jewish Congress joins wholeheartedly in Mr. Wilkins' statement and testimony submitted this morning. Second, we desire to reaffirm the testimony which the American Jewish Congress submitted to the committee at the last session on civil-rights measures which were then pending before the committee. It is only in the interests of saving time that we have refrained from submitting a separate specific analysis of the various measures which are now pending before the committee.

I cannot refrain from adding two very brief comments on the testimony presented to the subcommittee which I heard as I sat here this morning:

(1) With respect to the proposal for an amendment made by Congressman Ray, the committee will surely want to consider the lack of uniformity in the interpretation and protection of civil rights which would result from the doublebite that his proposal would give to State courts in some areas and to Federal courts in other areas on questions of civil rights violations.

(2) With respect to the testimony so forcefully presented to the subcommittee by Mr. Scheidt of North Carolina I could not help wondering as I listened to his replies to your questions whether he would really consider it a matter for purely local law enforcement if assaults were committed by groups of Negroes, or whites, who stationed themselves outside of every polling place in a southern city and beat up every white, or Negro, voter, who sought to register or vote in a Federal election there. His whole emphasis was that the act of assault, being committed in a particular place, is a local matter, and that the purpose of the assault does not change its essentially local character. But this is hardly a sound concept or distinction. For all crimes are local, in the sense that the acts which constitute a crime are committed in a particular place. The greatest crime under our Constitution, as to which there is no question of Federal authority or jurisdiction—the crime of treason—is local in the sense that the acts which constitute the treason are committed in a particular place or places. But no one can question the jurisdiction of the Federal Government to punish for treason. It would be most unfortunate to allow to stand unchallenged in this record the theoretical concept which Mr. Scheidt has so strongly espoused before the subcommittee—that to be subject to Federal cognizance of a crime must somehow be ubiquitous or all-pervading. There is no crime that is as a physical matter committed in all 48 States at the same time. The point is that if we are to have a Union, there must be Federal jurisdiction over all matters that are of truly national concern. I think it is plain beyond any doubt that protection of the constitutional rights that are guaranteed to all our citizens is an item of such truly national concern.

Respectfully submitted

SANFORD H. BOLZ.
Washington Council, American Jewish Congress.

The CHAIRMAN. Our colleague, on our own committee, Representative Forrester of Georgia will be the next witness.

STATEMENT OF HON. E. L. FORRESTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. FORRESTER. Mr. Chairman, I want to take the occasion to thank the chairman for the kindnesses and courtesies that he has shown to me and to all other witnesses who have appeared on the stand.

I want to say to the chairman and the members here that each and every one of us realize that this is serious legislation. I know the chairman does because the chairman saw fit to admonish and ask that these discussions be temperate and in kindness and compassion. I agree so wholeheartedly with the chairman about that. I want to assure the chairman that it behooves me and I intend to try to do everything working with the chairman to expedite these hearings just as much as I possibly can.

Consequently, I am going to ask the chairman in his liberality to just defer a little bit. I know the chairman had me scheduled to talk first. It just so happens that our Georgia Legislature, General As-

sembly, is in session, and the first witness which I will introduce is badly needed in the State of Georgia, yet he caught a plane and came up here because he wanted to have the privilege of testifying before this subcommittee and representing the sovereign State of Georgia. As soon as he is through, and if the chairman will excuse him, he expects to catch a plane and go back to Atlanta.

Mr. Chairman, the gentleman that I am going to introduce probably doesn't need any introduction. Maybe you have not met him personally, but I am sure that every one of you has heard of him. He is a first honored graduate of Mercer University, past president of the Georgia Baptist Sunday School Convention, trustee of Mercer University. In his youth he was the district chairman of the Young Men's Democratic Club down in Georgia. He was solicitor of the city court in his home county, solicitor general of the Dublin circuit, State revenue commissioner, and has been the attorney general of our State since 1945, and I suppose he will continue to be, as long as he wants to, because for some years now he has had no opposition. He had the distinguished honor of having been the president of the National Association of Attorneys General.

Mr. Chairman, the gentleman that I refer to is the Honorable Eugene Cook, attorney general of Georgia, and I appreciate your allowing him to appear at this time.

The CHAIRMAN. You may proceed, Mr. Cook.

STATEMENT OF EUGENE COOK, ATTORNEY GENERAL OF THE STATE OF GEORGIA

Mr. COOK. Thank you, Mr. Chairman and gentlemen of the committee, I feel very humble after that very flattering introduction by my Congressman from Georgia, Mr. Forrester.

I am deeply grateful for the opportunity of being able to present my views in opposition to the proposed civil-rights bills, the bills that are now pending before this august committee.

I have been very much concerned about 1 or 2 observations I made in the exchange of remarks between the members of this committee and one of the witnesses preceding me, the witness from the great State of Alabama. I am concerned about 1 or 2 observations, Congressman Keating, you made, and that is, where Negroes are systematically left off the jury list or out of the box or systematically stricken therefrom, the Negro person in his attempt to obtain justice under the law—equal justice under the law—would not probably—and I hope my assumption is incorrect—be able to obtain that basic constitutional right if he is tried by a jury of 12 white men. If there is anything that a southerner resents—and I am not referring this statement to you——

Mr. KEATING. I did not make such a statement.

Mr. COOK. I though you made that statement. I beg your pardon if you did not.

Mr. KEATING. I know the southerners and, if a Negro or white man is charged with stealing a purse, they try to decide it on the merits if it is an all-white jury.

Mr. COOK. Thank you.

Mr. KEATING. I have not any doubt in my mind about that and I did not make any such a statement.

Mr. COOK. I prefaced my remarks by stating that I hoped the assumption was not correct, that is, as to your thinking and as to the statement.

As a matter of fact, it has been something less than a century that we people in the South were met with the terrific problem of solving a race problem that was not brought about on our own motion altogether. Here was a large population constituting, I think, according to the record, of about 70 or 80 percent of the Negro population of the United States centered in the Deep South, who, after the issuance of the Proclamation of Emancipation, were turned loose into a society whose cultural background, whose concept of government, dated back for thousands of years, into a society that had never had to adjust itself economically, politically, or otherwise to an overnight revolutionary adjustment of intimate contact with these unfortunate people who were uneducated, with no cultural background, and only 150 years removed, some of them—the descendants, rather—from cannibalism.

With that situation we had to make an adjustment as best we could, because contrary to the views of some people, Mr. Chairman and gentlemen of this committee, there are those of us yet in the South who still believe that the issue during the War Between the States was not slavery, but altogether one of State's sovereignty and the State's rights under the Constitution to secede from the Union on their own motion.

In view of all of this, during these ninety-odd years in the South the white people have done, I believe, a noble job in trying to demonstrate to the world that we love the Negro in his right place.

I will give you one example: I went broke farming in 1933 when I should have been practicing law. I ran a rather sizable operation.

I had some 25 Negro tenants on a 2,000-acre tract of farmland. When I left in 1943 my rural section, my hometown, I sold to those Negro tenants the 2,000 acres that I went broke on along with them, and today they own that land. I recollect insofar as that relationship is concerned that I have eaten in the same room with them on the farm; I have ridden with them from the farm to town; sitting in the front seat of my car; I have exchanged conversations with them in my own home, and I never have yet felt any vacuum or chasm in between my relationship with the Negro and my own or my family and the white people, except in those areas that the sovereign State of Georgia has so well defined as being areas of intimate intercourse, that because of facts so many of which would dare not intrude upon your time to tell you about, that we have by law—and there is the crux of your efforts and the Supreme Court—to move to what you call civil rights. Those areas are four in number in my State: Education, eleemosynary institutions, transportation, and the penal system.

I hope there is no feeling or assumption on the part of you gentlemen and people in other areas of this country that we attempt to segregate the two races in every respect. It is respected entirely to those four areas.

Of course, those laws were enacted concerning those four areas back when you remember it became, whether justifiable or not—I think it was—when it was necessary in the South or when people thought it was necessary, to organize what is known as the Ku Klux Klan. I know you have read the history of it.

At that time the scalawags and carpetbaggers, according to historians, had taken over the judicial system of our States in the Deep South, our women were helpless, there was starvation, as the man who was reckless with matches said after he burned Georgia to the earth from Atlanta to Savannah, Ga., "A crow flying from Atlanta to Savannah would starve to death if he didn't have a breadbasket around his neck." That is what Mr. Sherman said.

With that situation we had to do something. In doing so we fixed a pattern of life that is deeply embedded and will forever remain that way. We have attempted in Georgia to do everything that we possibly could to help the state of the Negro population.

Here I might observe, Mr. Chairman, that some reference was made to segregation of the races in New York. I say without fear of contradiction that numerically speaking there is in New York a greater state of segregation, while you have integration in certain spotted areas, as strong or stronger than we have even in Georgia. I refer to Harlem. I bring that up with all due deference to you and the great people of your State. I do it to point out this one basic fundamental proposition. Why do you have that situation in New York without any laws? It goes to the very basic fundamental proposition, that the people wanted it that way. The Negroes wanted it that way. The white people wanted it that way. And they voluntarily did what we in Georgia have given legal sanction to.

The CHAIRMAN. No, Mr. Attorney General, people don't want it. If you come to my baliwick, Brooklyn, you will find new developments where white people and colored people live together in perfect harmony. We have these huge developments all over Brooklyn, for example, where there is a mixed population of all sorts. We do not have any statutes or any attempts to build in statutes in our legislative fabric which compels segregation. We do not have any segregation on subways or on any of our transportation systems or eleemosynary institutions or penal institutions. We have no such segregation in the places where you think there should be segregation. We have an FEPC statute which prevents any discrimination in employment in New York. We have many, many civil rights statutes on our books assuring that there would be no deliberate segregation.

Unfortunately, in Harlem, as I indicated, there has been growing up over the years the problem of segregation, but we are not baffled by it. Nonetheless we are solving it. We are moving the Negro population not only over all New York City so as to do away with Harlem, and many of the Negroes are going into suburbia.

Mr. KEATING. Furthermore, Mr. Chairman, we are getting wide of the mark. We are not talking about segregation. We are talking about basic civil rights given by the Constitution. The right to vote is the primary one. There is no restriction in New York State on any racial group as to the right to vote. Anybody can vote and comply with the State laws on this.

The CHAIRMAN. Not only the right to vote but many of our highest public officials in New York are of the colored race.

Mr. COOK. Mr. Chairman, I believe this. I will call your attention to the fact that I was giving you a background of how segregation came about. There can be no question, surely, but what these bills are designed to break down legally sanctioned segregation in the States in every area.

The CHAIRMAN. Why don't you take a leaf out of the New York book.

Mr. COOK. You know one of the most unfortunate things in this entire issue in this country is that I do not know your problems and you don't know mine. It is indeed unfortunate that the authors of these bills have not had an opportunity to come into my State and see what we have done, working side by side with the Negroes, what we have provided for them, economically, socially, and politically, and incidentally, Mr. Chairman and gentlemen of this committee, as of this writing we have not had the first incident—race incident—in the State of Georgia since the *Brown* v. *Topeka* case in 1954 involving the school problem.

Mr. KEATING. Mr. Attorney General, I am an author of the administration bill. I have been in the South many times. I have many close personal friends in the South, many of whom I differ with on this particular issue. I believe I know the social pattern in the South. We are not here talking about any social pattern. We are here talking about basic civil rights guaranteed by the Constitution. It has nothing whatever to do with the intermingling of the races socially. It strikes me as way wide of the mark to be talking about things that do not have to do with the specific legislation before us. The rights are not enlarged in the bill which I have introduced. It only gives an additional remedy to the Attorney General of the United States to enforce certain rights which are already written into the Federal statute.

The CHAIRMAN. The gentleman is certainly within his province in trying to give the background. Is that what you are trying to do?

Mr. COOK. That is exactly right. I am unable to grasp the point because I am just a country lawyer, that these bills—and I am thinking of a lot of them, and I shall get into and discuss them from the legal aspect without belaboring this other aspect soon—I take the position that the effect of these bills over all go to the social problem. That is my theory, and it may be merely a theory.

But the result of the enforcement, the enactment and enforcement of these acts certainly would change if enforced or rather enacted and enforced, the social pattern of the Deep South.

Mr. KEATING. Mr. Attorney General, how would it change the social pattern in the Deep South to give to the Attorney General the right to enjoin an action which an individual can now bring damages for?

Mr. COOK. Taking that instance, take the school desegregation case. There is an already settled proposition insofar as the law is concerned. That decision is designed to restrain the school authorities from denying admission of persons to the schools on account of race or color. When that is done, when the integration takes place under that decree you have placed in the classrooms the Negro and the white children together, and the social aspect of education today all over the Nation is paramount in the scheme of the education.

Mr. HOLTZMAN. It is the law of the land, the Supreme Court decision you speak of?

Mr. COOK. Mr. Congressman, I must take this position with all humility. I have been in the judiciary for 25 consecutive years, serving in that capacity, once as a judge. Never before in all of my appearances before the Supreme Court, and I lost a lot of cases up there and have and will lose more, have I ever criticized the Court

as such. I am here to tell you as one who has given his adult life to the judiciary that while for the time being under some theory of our Constitution and decisions heretofore handed down it can be said that it is the supreme law of the land, but the supreme law of the land under our Constitution is the people of the United States and not the Supreme Court of the United States. While I will concede theoretically your proposition, insofar as my State is concerned we are going to circumvent that decision within the law, if we can possibly do it.

The CHAIRMAN. How can you do that within the law? You have the unanimous decision of the Supreme Court which strikes down the idea of "separate but equal," and says that children in the schools cannot be separated and there must be a desegregation. How can you justify legally to us as lawyers and to us as members of the Judiciary Committee, who are supposed to do everything consistent with Supreme Court decisions, that statement? How can you justify also the efforts now being made in Georgia to take legisaltive action to block the Supreme Court decision? Tell me how can a State, unless it want to do something equivalent to secession, run counter in that way to a Supreme Court decision? I would appreciate your views.

Mr. COOK. Mr. Chairman, the Congress of the United States has recently done it. You passed an act up here circumventing the Tidelands cases, involving Texas, California, and Louisiana.

Mr. HOLTZMAN. You liked the decision of the Supreme Court in that instance?

Mr. COOK. Who? You mean taking away from us our submerged tidelands minerals and so forth? I did not like it.

Mr. HOLTZMAN. Did you like the action of the Congress?

Mr. COOK. I loved it.

Mr. KEATING. While I differ with the action of Congress and differ with you in that regard and was opposed to the action taken by the Congress, yet that was the Congress of the United States that acted. The question put to you by the Chairman is how can the State Legislature of Georgia overrule or circumvent a decision of the United States Supreme Court.

Mr. COOK. Mr. Chairman, I understand that most of you gentlemen are lawyers. The Supreme Court of the United States has said we can do it. The Supreme Court of the United States says that Georgia is not a party to the Brown et al. case. They have said it 100 times. This decision does not apply to anybody except parties before the Court. That is basic and fundamental. Your attorney will agree with me.

The CHAIRMAN. If the State of Georgia passes legislation to the effect that there must be segregation, anyone in pursuance of that Supreme Court decision could take action to prevent the action in turn of the State legislature and bring a case in the district court and the district court would have to follow the Supreme Court decision.

Mr. COOK. I will concur with you on that, but it so happens that the Negroes in my State do not want to integrate because they have demonstrated it by not bringing any suits in the secondary and elementary schools.

The CHAIRMAN. The consequence will be that there will be an avalanche in the district courts, and then what will Georgia do?

Mr. COOK. What will Georgia do?

The CHAIRMAN. The result will be that if you pass this legislation in Georgia, then you will have an avalanche of cases brought in the district courts of the United States in Georgia which would seek to overthrow what the legislature is doing. They undoubtedly will have to do that and the judges of the district court will have to follow the Supreme Court decision.

What will you have then? Just your labor for your pains.

Mr. COOK. No, Mr. Chairman. I want to make this clear to you. We have a choice to make in our State and the Deep South. We have a choice to make that is very serious. I do not have to present facts to you to prove this point.

We have to choose between following the Supreme Court decision and becoming faced with violence. We have not had it, thank goodness, in Georgia, but you have had it in other Southern States. I do not think legislation and court decisions can change temperament, emotions, and basic human feelings concerning this issue. I am frank and honest in saying that. I of all people detest the idea of violence.

As a matter of fact, the Ku Klux Klan of the United States had its headquarters in Atlanta. I had their charter revoked in 1947 because of demonstrations of violence. I went into court as attorney general and handled the case myself in 1947 and had their charter revoked. I say that to demonstrate the fact that the people of Georgia do not want violence. We do not want any organization that preaches violence or hatred. That is to prove my sincerity. That is the only reason I made that observation.

Mr. Chairman, I did have at one time copies of the approach to these bills from a legal aspect.

The CHAIRMAN. We have it.

Mr. COOK. If I may, Mr. Chairman, I would like to discuss these bills and my opposition respecting them from the legal point of view.

The CHAIRMAN. Mr. Attorney General.

Mr. COOK. Would you like for me to be open for questions and answers while I proceed? It might be better for you and the committee if I go through until I am finished, because I am dealing with specific cases, and then answer any questions that I can.

Mr. RODINO (presiding). You proceed in your own way.

Mr. COOK. As to the proposed legislation, we are met at the outset by a multitude of so-called antilynching bills—at least eight before the House and Senate.

Without exception these bills all define "lynching" as action by two or more persons in committing or attempting to commit violence upon any person because of his race, religion, or color, or, secondly, the exercising or attempting to exercise by two or more persons of the power of punishment for crime against any person held in custody on charges or after conviction.

You will notice there, Mr. Chairman, that I deleted the first seven pages of my original statement and that accounts for the fact you are now on page 8. There was some information that I did not feel the committee would be too much interested in.

It is to be noted that this new version of the antilynch statute, unlike some of its predecessors, does not contain the express exemption as

to violence arising out of labor disputes, but is carefully phrased in such a subtle manner as to accomplish the same objective without language which would be apparent to the casual reader. And I use the word "subtle" with due deference to the author and apologies if offended by the word "subtle" in that statement.

Mr. KEATING. Please do not look at me, Mr. Attorney General, because there is no such a thing in the bill I offered.

Mr. COOK. I would like to pay you this compliment, Congressman Keating, and that is that you seem to be so much interested in what I am trying to say that I cannot help but look at you.

Mr. KEATING. That is very kind of you and I am happy to look at you. I want to call your attention to the fact that you have made a generalization about the bills here that has no application whatever to H. R. 1151, which is the bill I have introduced.

Mr. COOK. I will get to your bill before I finish. It is somewhat hypocritical, to say the least, for the labor-union leaders who have so vigorously advocated this legislation to completely ignore their own problem and secure exemption from the bill's coverage. Murder committed against innocent people trying to make a living for themselves during a labor dispute is no less despicable than murder committed because of one's race, and it is only necessary to read the daily newspapers to perceive which occurs most frequently.

Under the wording of these bills, where a member of a minority commits violence against a member of the majority race, such action would merely constitute assault and battery under State law, but if a member of the majority similarly violated the rights of a member of the minority, it would ipso facto rise to the level of a Federal offense, and the accused could be punished not only under Federal law, but also in State courts. For committing identical acts, the white man would be tried in 2 courts and given 2 prison sentences whereas the Negro would be tried only in State court and receive only one. This bill does not guarantee equal protection—it assures unequal protection, in my opinion.

But this is only a milder feature of these radical proposals. Provision is made whereby any aggrieved person can sue for damages not only the police officers—State or Federal—who it is alleged failed to take necessary action to afford protection, but the municipality, State, and United States as well, in some of these bills.

Under the pretense of vindicating the Constitution, these bills would justify legislative defiance of the 11th amendment's commands that suit may not be brought in Federal court against a State without its prior consent. As early as 1828 it was settled that an action to recover money from a State treasury is a suit against the State and not maintainable in Federal court.

I think that brought about the 11th amendment that granted immunity to the States. I think it was a Georgia case. A South Carolinian sued the State of Georgia to obtain a money judgment and sought to enforce it, and as a result we had the 11th amendment. *Sundry African Slaves* v. *Madrazo* (1 Pet. 110, 7 L. Ed. 73). See also *Larson* v. *Domestic & Foreign Commerce Corp.* ((1949) 337 U. S. 682, 93 L. Ed. 1628, 69 S. Ct. 1457). While counties and municipalities have never been considered the "State" and accordingly are not subject to the 11th amendment's immunity against suit (*Lincoln County* v. *Luning* (1890) 133 U. S. 528, 33 L. Ed. 766, 10 S. Ct. 363 [county]; *Old*

Colony Trust Co. v. *Seattle* (1926) 271 U. S. 426, 70 L. Ed. 1019, 46 S. Ct. 552 [municipality]) it has been held that the existing civil-rights statutes were not intended to confer damage claims against a municipality itself, as distinguished from its agents. (*Charlton* v. *City of Hialeah* (CA Fla. 1951) 188 F. 2d 421; *Hewitt* v. *Jacksonville* (CA 5th 195) 188 F. 2d 423, cert. den. 342 U. S. 835; *Shuev* v. *State of Michigan* (D. C. Mich. 1952) 106 F. Supp. 32).

Although the bills generally provide as a defense to suit for damages the fact that police officers in the area where the lynching occurred took all possible action to prevent same, the mere abstract existence of this defense affords little consolation to anyone familiar with the practicalities of civil-rights litigation. Within the past 10 years or so, probably more damage suits have been brought under 42 U. S. C. A., sections 1983 and 1985, than in all the previous years since adoption of the 14th amendment. A review of the reported decisions will disclose some of the most absurd, farfetched and groundless claims ever conceived of. Frequently, these complaints are home drawn by individuals who have heard so much about civil rights that they have come to believe every minor grievance they have—real or imaginary—to constitute a matter of grave constitutional concern. It is not enough that the complaint may eventually be dismissed or the relief prayed for denied. The defendants who would have to defend these suits should not be required to undergo the expensive burden of litigation in Federal court.

Moreover, the State courts have historically and traditionally been the proper place for determination of damage claims, and the proposed bill is in effect an attempt to create a Federal wrongful death statute. If the State courts commit error of a Federal nature, and only matters of a Federal nature could be litigated in Federal district courts anyway, it should not be assumed that the United States Supreme Court will ignore its duty on certiorari or appeal.

The most fundamental infirmity in these bills, however, is that they apply not only to State officers, but to private individuals as well.

When the 14th amendment was under consideration in Congress, the preliminary drafts were phrased in terms of prohibition against denial of due process or equal protection by any person, whether State officials or otherwise. This language was later changed to its present form, which is that "no State shall deny * * * due process * * * or equal protection of the laws." See Flack, Adoption of the 14th amendment, pages 60–62. This change in language was referred to in the debates on the later civil-rights statutes as being indicative of the fact that the final draft was intended only as a limitation on State action, Flack, supra, page 239.

In the classic case defining the scope of the due process and equal protection clauses of the 14th amendment, *Civil Rights* cases ((1883) 109 U. S. 12, 27 L. Ed. 839, 3 S. Ct. 22), the Court had under review several convictions under sections 1 and 3 of the Civil Rights Act of 1875 (18 Stat., at L. 335) which made it a Federal offense for any person to deprive any other person of equal accommodations in inns, public conveyances, and theaters, the indictment alleging that defendants had refused certain Negroes, because of their race, admission to an inn and theater.

In holding the statute unconstitutional as exceeding the powers of Congress under the 14th amendment, it was said:

> It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. * * * It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation or State action, of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers * * * (Id., p. 11).
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> In this connection it is proper to state that civil rights, such as are guaranteed by the Constitution against State aggression (due process and equal protection), cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress * * *.

In *United States* v. *Harris* ((1883) 106 U. S. 629, 27 L. Ed. 290, 1 S. Ct. 601), section 5519 of the Revised Statutes was before the Court for consideration. This section declared it is a crime for two or more persons to conspire to deprive any person or class of person of the equal protection of the laws. Its language, as pointed out recently by the Supreme Court in *Collins* v. *Hardyman* ((1951) 341 U. S. 651, 657, 95 L. Ed. 1253, 1257, 71 S. Ct. 937), is indistinguishable from a civil provision now known as 42 United States Code 1985 (3).

In the Harris case, the defendants were charged under the penal provision, to wit, section 5519, with having assaulted and beaten several prisoners who were being held in custody of State police officers. The Supreme Court held the statute unconstitutional in that it was—

> not limited to take effect only in case the State shall abridge the privileges or immunities of citizens of the United States, or deprive any person of life, liberty, or property without due process of law.

As recently as 1948, in *Shelley* v. *Kraemer* (334 U. S. 1, 13, 92 L. Ed. 1161, 1180, 68 S. Ct. 836), the Supreme Court declared with respect to the scope of the 14th amendment:

> Since the decision of this Court in the *Civil Rights* cases (109 U. S. 3, 27 L. Ed. 835, 3 S. Ct. 18 (1883)), the principle has become firmly embedded in our constitutional law that the action inhibited by the first section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful.

Even so vigorous a proponent of civil rights as Mr. Justice Douglas, writing for the majority in *Screws* v. *United States* ((1945), 325 U. S. 91, 89 L. Ed. 1495, 65 S. Ct. 1031), held that:

> The fact that a prisoner is assaulted, injured, or even murdered by State officials does not necessarily mean that he is deprived of any right protected or secured by the Constitution, or laws of the United States.

It is therefore clear beyond all question that these antilynching bills cannot be sustained under the 14th amendment as due process or equal protection measures. It now only remains to be seen whether they could be upheld as an exercise by Congress of its powers to protect federally secured rights.

In this respect in *United States* v. *Cruikshank* ((1876) 92 U. S. 452, 23 L. Ed. 588), it was said:

> We have in our political system a Government of the United States and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other. * * *
>
> The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States, except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States.

In the *Slaughter House* cases ((1873) 16 Wall. 36, 21 L. Ed. 394), which was the first decision construing the 14th amendment, it was held that the amendment's reference to "privileges and immunities of citizens of the United States" only operated as a prohibition against State encroachment on rights and privileges which devolved upon a citizen by virtue of his status as a citizen of the United States, as distinguished from his status as a citizen of the State. In so holding, the Court declared:

> Of the privileges and immunities of the citizens of the United States, and of the privileges and immunities of the citizens of the State, and what they respectively are, we will presently consider; but we wish to state here that it is only the former which are placed by this clause under the protection of the Federal Constitution, and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the amendment.

Moreover, it was determined that it was not the intention of Congress in submitting, and the intention of the people in ratifying—

> to transfer the security and protection of all the civil rights which we have mentioned from the States to the Federal Government (id., 21 L. Ed., at p 409).

As stated by the Court:

> But, however, pervading this sentiment, and however it may have contributed to the adoption of the amendments we have been considering, we do not see in those amendments any purpose to destroy the main features of the general system. Under the pressure of all the excited feeling growing out of the war, our statesmen have still believed that the existence of the States with power for domestic and local government, including the regulation of civil rights, the rights of person and of property, was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations on the States, and to confer additional power on that of the Nation.

In distinguishing between the privileges and immunities that arise from State citizenship, and those that arise from national citizenship, the Court gave as examples of the letter, the right "to come to the seat of government to assert any claim he may have upon government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions"; the "right of free access to its seaports, through which all operations of foreign commerce are conducted, to the subtreasuries, land offices, and courts of justice in the several States"; the right "to demand the care and protection of the Federal Government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government"; the "right to peaceably assemble and petition for redress

of grievances," the "privilege of the writ of habeas corpus"; the right to "use navigable waters of the United States, however they may penetrate the territory of the several States, and all rights secured to our citizens by treaties with foreign nations"; and the right of a citizen of the United States to become a citizen of a State merely by residing therein.

On the other hand, the rights recognized by the courts as arising from relation of the citizen to the State are much broader, to wit—

protection by the Government, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may prescribe for the general good of the whole.

Mr. Chairman, I have committed the sin of imposing on the time of other prominent people that are anxious to give their views, and I assume, and I know he will, that Congressman Keating will read my approach to his bill, if the committee will relieve itself of this laborious job that I am doing in reading this legal document. I am perfectly happy to submit it if you will put it in the record.

Mr. RODINO. It is perfectly all right. It will be submitted and placed in the record.

(The document referred to is as follows:)

IN OPPOSITION TO PROPOSED CIVIL RIGHTS LEGISLATION, BY EUGENE COOK, THE ATTORNEY GENERAL OF GEORGIA

As to the proposed legislation, we are met at the outset by a multitude of so-called antilynching bills—at least eight before the House and Senate.[1]

Without exception these bills all define "lynching" as action by two or more persons in committing or attempting to commit violence upon any person because of his race, religion, or color, or, secondly, the exercising or attempting to exercise by two or more persons of the power of punishment for crime against any person held in custody on charges or after conviction It is to be noted that this new version of the antilynch statute, unlike some of its predecessors, does not contain the express exemption as to violence arising out of labor disputes, but is carefully phrased in such a subtle manner as to accomplish the same objective without language which would be apparent to the casual reader It is hypocritical, to say the least, for the labor union leaders who have so vigorously advocated this legislation to completely ignore their own problem and secure exemption from the bills' coverage. Murder committed against innocent people trying to make a living for themselves during a labor dispute is no less despicable than murder committed because of one's race, and it is only necessary to read the daily newspapers to perceive which occurs most frequently

Under the wording of these bills, where a member of a minority commits violence against a member of the majority race, such action would merely constitute assault and battery under State law, but if a member of the majority similarly violated the rights of a member of the minority, it would ipso facto rise to the level of a Federal offense, and the accused could be punished not only under Federal law, but also in State courts For committing identical acts, the white man would be tried in 2 courts and given 2 prison sentences whereas the Negro would be tried only in State court and receive only 1. This bill does not guarantee equal protection—it assures unequal protection, in my opinion

But this is only a milder feature of these radical proposals Provision is made whereby any aggrieved person can sue for damages not only the police officers—State or Federal—who it is alleged failed to take necessary action to afford protection, but the municipality, State, and United States as well, in some of these bills

Under the pretense of vindicating the Constitution, these bills would justify legislative defiance of the 11th amendment's commands that suit may not be brought in Federal court against a State without its prior consent. As early as 1828 it was settled that an action to recover money from a State treasury is a suit

[1] H R 957, 1097 143, 441, 359, and 159, S. 429 and 505.

against the State and not maintainable in Federal court. *Sundry African Slaves* v. *Madrazo* (1 Pet. 110, 7 L. ed. 73). See also *Larson* v. *Domestic & Foreign Commerce Corp.* ((1949) 337 U. S. 682, 93 L. ed. 1628, 69 S. Ct. 1457). While counties and municipalities have never been considered the "State" and accordingly are not subject to the 11th amendment's immunity against suit (*Lincoln County* v. *Luning* (1890) 133 U. S. 529, 33 L. ed. 766, 10 S. Ct. 363 (county); *Old Colony Trust Co.* v. *Seattle* (1926) 271 U. S. 426, 70 L. ed. 1019, 46 S. Ct. 552 (municipality)) it has been held that the existing civil-rights statutes were not intended to confer damage claims against a municipality itself, as distinguished from its agents. *Charlton* v. *City of Hialeah* ((CA Fla. 1951) 188 F. 2d 421); *Hewitt* v. *Jacksonville* ((CA 5th 195) 188 F. 2d 423, cert. den. 342 U. S. 835); *Shuey* v. *State of Michigan* ((D. C. Mich. 1952) 105 F. Supp. 32).

Although the bills generally provide as a defense to suit for damages, the fact that police officers in the area where the lynching occurred took all possible action to prevent same, the mere abstract existence of this defense affords little consolation to anyone familiar with the practicalities of civil-rights litigation. Within the past 10 years or so, probably more damage suits have been brought under title 42, United States Code Annotated, sections 1983 and 1985, than in all the previous years since adoption of the 14th amendment. A review of the reported decisions will disclose some of the most absurd, farfetched, and groundless claims ever conceived of. Frequently, these complaints are home drawn by individuals who have heard so much about civil rights that they have come to believe every minor grievance they have, real or imaginary, to constitute a matter of grave constitutional concern. It is not enough that the complaint may eventually be dismissed or the relief prayed for denied. The defendants who would have to defend these suits should not be required to undergo the expensive burden of litigation in Federal court.

Moreover, the State courts have historically and traditionally been the proper place for determination of damage claims, and the proposed bill is, in effect, an attempt to create a Federal wrongful death statute. If the State courts commit error of a Federal nature, and only matters of a Federal nature could be litigated in Federal district courts anyway, it should not be assumed that the United States Supreme Court will ignore its duty on certiorari or appeal.

Th most fundamental infirmity in these bills, however, is that they apply not only to State officers, but to private individuals as well.

When the 14th amendment was under consideration in Congress, the preliminary drafts were phrased in terms of prohibition against denial of due process or equal protection by any person, whether State officials or otherwise. This language was later changed to its present form, which is that "no State shall deny * * * due process * * * or equal protection of the laws." (See Flack, Adoption of the Fourteenth Amendment, pp. 60–62.) This change in language was referred to in the debates on the later civil-rights statutes as being indicative of the fact that the final draft was intended only as a limitation on State action (Flack, supra, p. 239).

In the classic case defining the scope of the due process and equal protection clauses of the 14th amendment, *Civil Rights* cases ((1883) 109 U. S. 12, 27 L. ed. 839, 3 S. Ct. 22), the Court had under review several convictions under sections 1 and 3 of the Civil Rights Act of 1875 (18 Stat. at L. 335) which made it a Federal offense for any person to deprive any other person of equal accommodations in inns, public conveyances, and theaters, the indictment alleging that defendants had refused certain Negroes, because of their race, admission to an inn and theater.

In holding the statute unconstitutional as exceeding the powers of Congress under the 14th amendment, it was said:

"It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment."

* * * * * * *

"It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation; but to provide modes of relief against State legislation or State action, of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers * * *" (Id., p. 11).

* * * * * * *

"In this connection it is proper to state that civil rights, such as are guaranteed by the Constitution against State aggression (due process and equal protection), cannot be impaired by the wrongful acts of individuals, unsupported by State

authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress * * *"

In *United States* v *Harris* (1883) 106 U S. 629, 27 L. ed. 290, 1 S. Ct. 601), section 5519 of the Revised Statutes was before the Court for consideration. This section declared it a crime for two or more persons to conspire to deprive any person or class of person of the equal protection of the laws. Its language, as pointed out recently by the Supreme Court in *Collins* v *Hardyman* (1951) 341 U S 651, 657, 95 L ed. 1253, 1257, 71 S Ct. 937), is indistinguishable from a civil provision now known as title 42, United States Code Annotated, section 1985 (3).

In the Harris case, the defendants were charged under the penal provision, to wit, section 5519, with having assaulted and beaten several prisoners who were being held in custody of State police officers The Supreme Court held the statute unconstitutional in that it was "not limited to take effect only in case the State shall abridge the privileges or immunities of citizens of the United States, or deprive any person of life, liberty, or property without due process of law."

As recently as 1948, in *Shelley* v. *Kraemer* (334 U. S. 1, 13, 92 L ed. 1161, 1180, 68 S Ct 836), the Supreme Court declared with respect to the scope of the 14th amendment:

"Since the decision of this Court in the Civil Rights cases (109 U. S. 3, 27 L. ed 835, 3 S Ct 18 (1883)), the principle has become firmly embedded in our constitutional law that the action inhibited by the 1st section of the 14th amendment is only such action as may fairly be said to be that of the States That amendment erects no shield against merely private conduct, however discriminatory or wrongful."

Even so vigorous a proponent of civil rights as Mr Justice Douglas, writing for the majority in *Screws* v. *United States* (1945) 325 U. S 91, 89 L. ed. 1495, 65 S Ct 1031), held that:

"The fact that a prisoner is assaulted, injured, or even murdered by State officials does not necessarily mean that he is deprived of any right protected or secured by the Constitution or laws of the United States."

It is therefore clear beyond all question that these antilynching bills cannot be sustained under the 14th amendment as due process or equal protection measures It now only remains to be seen whether they could be upheld as an exercise by Congress of its powers to protect federally secured rights.

In this respect in *United States* v *Cruikshank* (1876) 92 U. S. 542, 23 L ed. 588), it was said:

"We have in our political system a Government of the United States and a government of each of the several States Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction it must protect The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other."

* * * * * * *

"The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States, except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States."

In the *Slaughter House* cases (1873), 16 Wall. 36 21 L ed 394), which was the first decision construing the 14th amendment, it was held that the amendment's reference to "privileges and immunities of citizens of the United States" only operated as a prohibition against State encroachment on rights and privileges which devolved upon a citizen by virtue of his status as a citizen of the United States, as distinguished from his status as a citizen of the State. In so holding, the Court declared:

Of the privileges and immunities of the citizens of the United States, and of the privileges and immunities of the citizens of the State, and what they re-

spectively are, we will presently consider; but we wish to state here that it is only the former which are placed by this clause under the protection of the Federal Constitution, and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the amendment.

Moreover, it was determined that it was not the intention of Congress in submitting, and the intention of the people in ratifying, "to transfer the security and protection of all the civil rights which we have mentioned from the States to the Federal Government" (Id., 21 L. ed., at p. 409.) As stated by the Court

"But, however, pervading this sentiment, and however it may have contributed to the adoption of the amendments we have been considering, we do not see in those amendments any purpose to destroy the main features of the general system. Under the pressure of all the excited feeling growing out of the war, our statesmen have still believed that the existence of the States with power for domestic and local government, including the regulation of civil rights, the rights of person and of property, was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations on the States, and to confer additional power on that of the Nation."

In distinguishing between the privileges and immunities that arise from State citizenship, and those that arise from national citizenship, the Court gave as examples of the latter, the right "to come to the seat of Government to assert any claim he may have upon Government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions"; the "right of free access to its seaports, through which all operations of foreign commerce are conducted, to the subtreasuries, land offices, and courts of justice in the several States"; the right "to demand the care and protection of the Federal Government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government"; the "right to peaceably assemble and petition for redress of grievances," the "privilege of the writ of habeas corpus"; the right to "use navigable waters of the United States, however they may penetrate the territory of the several States, and all rights secured to our citizens by treaties with foreign nations"; and the right of a citizen of the United States to become a citizen of a State merely by residing therein

On the other hand, the rights recognized by the courts as arising from relation of the citizen to the State, are much broader, to wit, "protection by the government, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the government may prescribe for the general good of the whole."

A case which absolutely controls this question is *United States* v. *Powell* ((C C Ala. 1907) 151 F 648), where the defendant had been indicted under sections 5508 and 5509 of the Revised Statutes, the indictment alleging that the accused had participated in a mob which overpowered the sheriff of Huntsville, Ala., and lynched a Negro prisoner being held in custody by the sheriff on charges of murder. It was further alleged in the indictment that such action deprived the deceased of the "right, privilege and immunity of a citizen of the United States" to have his case tried regularly in the courts according to prevailing modes in conformity to due process.

The circuit court reasoned that it was well within the power of Congress to punish individuals who committed such acts, on the ground that since the 14th amendment required the State to afford due process, which unquestionably is not satisfied by execution without trial, action by private individuals, which prevented the States from doing their constitutional duty was in effect interference with the Constitution's command, and hence the proper subject of congressional action. However, the court noted that what was considered obiter dictum by the Supreme Court in *Hodges* v *United States* ((1906) 209 U. S. 1, 51 L. Ed. 65, 27 S. Ct. 6), would require a different result, and hence determined that the appropriate course would be to sustain a demurrer to the indictment and give the Supreme Court the opportunity of adopting or rejecting its statements in the Hodges case, rather than for it, an inferior court, to hold that the Supreme Court's language had gone further than the facts there justified.

On appeal, the Supreme Court affirmed in a per curiam opinion which merely stated:

"The judgment is affirmed on the authority of *Hodges* v. *United States* * * *" *United States* v. *Powell* ((1909) 212 U. S. 564, 53 L Ed 653, 29 S Ct 690)

This disposition of the Powell case puts at rest the argument that the "right to be free from lynching is a right of all persons" and "citizens" as declared in several of these bills. The broad assertion in some of them, such as H. R. 359, 441, 143, 957, and S 505, that "such right * * * accrues by virtue of such citizen-

ship" is in direct conflict with the Powell decision, and constitutes defiance of the Supreme Court from the same quarter which delights in accusing others of such action

That the constitutionality of Federal antilynching legislation is questionable should be apparent from the statements of one of the present Supreme Court Justices, who, while he was Attorney General, had this to say regarding a similar provision in civil-rights proposals advanced in 1949:

"I am not unmindful of course, that serious questions of constitutionality will be urged with regard to some of the provisions of the bill. But I am thoroughly satisfied that the bill as drawn, is constitutional. It is true that there is a line of decisions holding that the 14th amendment relates to and is a limitation or prohibition upon State action and not upon acts of private individuals (*Civil Rights* cases (109 U S 3), *United States* v *Harris* (106 U. S. 629); *United States* v. *Hodges* (203 U. S. 1)). These decisions have created doubt as to the validity of a provision making persons as individuals punishable for the crime of lynching. However, without entering here upon a discussion of whether or not these decisions are controlling or possess present-day validity in this connection, it may be pointed out that such a provision punishing persons as individuals need not rest solely upon the 14th amendment Upon proper congressional findings of the nature set forth in H R 4683, the constitutional basis for this bill would include the power to protect all rights flowing from the Constitution and laws of the United States, the law of nations, the treaty powers under the United Nations Charter, the power to conduct foreign relations, and the power to secure to the States a republican form of government, as well as the 14th amendment."[2]

Attorney General Clark undoubtedly was unfamiliar with the Powell case, supra, for if he were, I am sure his fears as to unconstitutionality would have been without reservation

There are at least 11 bills which would outlaw the poll tax as a condition of voting in a national election[3] Here, however, unlike other proposed bills, the draftsman apparently was aware of the distinction between privileges and immunities of a citizen of the State and those of a citizen of the United States. In *Breedlove* v *Suttles* (1937) 302 U. S. 277, 82 L Ed. 252, 58 S Ct. 205), it was held that no privilege or immunity attributable to national citizenship was violated by a poll-tax requirement

It was expressly recognized that there is nothing evil or unusual in this form of taxation, for it was there said.

"Levy by the poll has long been a familiar form of taxation, much used in some countries and to a considerable extent here, at first in the Colonies and later in the States" (id, p 281).

While Georgia repealed its poll-tax law in 1945 (Georgia Laws, 1945, p. 129) on the general issue of States' rights, I would preserve the rights of the States to conduct elections as they may deem advisable.

So far as I know, there is no likelihood in Georgia of such legislation being passed; but in view of the rising costs of government and the tendency of the Supreme Court to dry up sources of State taxation, it may someday in the not too distant future become necessary for all States to levy such taxes to defray election expenses In view of the Supreme Court's decision in *United States* v. *Classic* (1941) 313 U S 299, 314, 85 L. ed 1368, 1377, 61 S. Ct. 1031), I will concede that the right to vote for a national officer is one derived from the Constitution, and hence the qualifications of voters, etc., may be dealt with by appropriate congressional action under article I, section 2, of the Federal Constitution, providing for the election of Congressmen This authority, of course, is separate and distinct from Congress power under the 14th and 15th amendment, for under the latter Congress would not be empowered to prohibit a poll tax, since the Supreme Court held in the Breedlove case, supra, that such a tax does not deny equal protection, even when certain classes of citizens, such as women and young and old people, are exempted therefrom

However, the fact that Congress may possess the power as to elections for national officers does not mean that it would be proper or desirable that it be exercised. Congress has always depended upon the States to conduct elections for National as well as State offices, and so long as the expense and responsibility are placed on the States they should not be deprived of one of the possible means of paying therefor.

At a time when national income is at an alltime high, it is difficult to see how the small exaction represented by a poll tax could prevent anyone who so desires

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[2] See report of House Subcommittee No 2, 84th Cong., p 179

[3] H R 213, 154, 141, 706, 587, 553, 538, 436, 355, 1260, and S 507

from voting. In any event, the tax falls on everyone alike; and if it be said that those with lower incomes are less able to absorb the costs, I submit that Congress had best clean up its own backyard first by reducing the almost prohibitive costs of litigation in the Federal courts. Also, the jurisdictional amount requirement is a far more glaring discrimination against the average- and lower-income litigants, whose claims seldom rise to the $3,000 class.

"There are at least 11 bills which propose to elevate the Civil Rights Section of the Department of Justice to the status of a Civil Rights Division and provide for an additional Assistant Attorney General to direct its activities.[4] In the report accompanying S. 902—a similar bill was introduced last session—it is said that this would give the civil-rights-enforcement program "additional prestige, power, and efficiency which it now lacks."

In view of Mr. Brownell's own admission that civil-rights complaints are at an alltime low, it seems difficult at this time to justify expanding this phase of the Justice Department's activities. This very fact will encourage meddling and baseless suits by the new Board, who will surely perceive that they must stir up litigation to justify the expense of their existence.

In addition, as mentioned in the report, it is anticipated that additional personnel will be required should other proposed civil-rights measures be enacted, this apparently having reference to the bills which would confer unheard-of injunctive powers on the Attorney General. Reduced to simple language, the police state must have an adequate supply of storm troopers to keep the States and their citizens under constant fear of being enjoined, sent to jail, called up before some commission in far-off places in a hostile surrounding, and kept in a general state of intimidation.

This brings me to the various bills, such as, for example, H. R. 1254, H. R. 2145, H. R. 2153, which all relate to voting. Several of these bills provide for amending the Hatch Act (18 U. S. C. A. 594) by adding to the section penalizing attempts to interfere with voting by anyone in a national election the words "primary election" so as to include primaries within the section's coverage.

A similar amendment is also made in several bills with respect to title 8, United States Code, section 31, now codified as title 42, United States Code, Annotated, section 1971. This section is also amended, apparently in an attempt to give its application to title 18, United States Code Annotated, section 242, the criminal provision, and title 42, United States Code Annotated, section 1983, the section conferring a civil cause of action for damages. Laying aside the fact that no need for these changes has been shown, the type of legislative drafting here utilized is to be frowned on. If section 242 of title 18 and section 1983 of title 42 are to be amended, they should be amended directly, rather than by adding a catchall clause to the end of another section which makes it almost impossible to predict how these two sections will be interpreted.

The section here amended directly (42 U. S. C. A. 1971) was originally intended only to be a declaration of principle, which would invalidate any State law in conflict therewith, while title 18, United States Code Annotated, section 242, was intended to prescribe a criminal penalty, and title 42, United States Code Annotated, section 1971, was intended to give a civil cause of action.

However, laying aside all other questions, the amendment here sought to be added is not necessary. In *Terry* v. *Adams* ((1953) 343 U. S. 461, 468; 97 L. ed. 1152, 1160; 73 S. Ct. 809), the Supreme Court has already construed title 42, United States Code Annotated, section 1981, as being applicable to primaries, in a decision which is recognized as going as far as possible in protecting the right to vote without amending the Constitution. Perhaps the Congress, like Mr. Justice Minton and I, believe the Court's decision to have gone too far, but it is strange for Congress, many Members of which have expressed the greatest respect for even the more questionable of the Court's opinions, to now manifest doubt as to the Court's ability by legislating to uphold its decision. Traditionally, under our system of government, the Court decisions have followed the legislation, but apparently some believe that procedure to be old fashioned, and that now, the courts are empowered to legislate initially to be then followed by congressional recognition in the form of statutory enactment.

The most disturbing feature of these bills, however, is that part which gives the Attorney General power to institute injunction suits at his own election, and without regard to whether the party whose rights are affected actually de-

[4] See H. R. 2145, 1254, 437, 550, 552, 140, 142, and 956; S. 510, 428, and 5502. There are also at least eight bills which only provide for appointment of an Assistant Attorney General. See H. R. 2153, 542, 374, 1151, 1101, 395, and 887; S. 83.

sires such litigation Such a procedure is contrary to every recognized principle of English and American jurisprudence.

In *McCabe* v. *Atchison, T. & Santa Fe R. Co.* ((1914) 235 U. S. 151, 162, 59 L. ed. 169, 174; 35 S Ct 69) it was read:

"It is an elementary principle that, in order to justify the granting of this extraordinary relief, the complaint's need of it, and the absence of an adequate remedy at law, must clearly appear. The complainant cannot succeed because someone else may be hurt. Nor does it make any difference that other persons who may be injured are persons of the same race or occupation. It is the fact, clearly established, of injury to the complainant—not to others—which justified judicial intervention"

This salutory principle—that one cannot litigate the constitutional rights of another—has received frequent application in the courts, particularly in the field of so-called discrimination cases. (See *Missouri ex rel Gaines* v. *Canada* (1938) 305 U S 337, 351, 83 L. ed. 208, 214, 59 S Ct 232; *Brown* v. *Board of Trustees* (C. A. 5th 1951), 187 F. 2d 20, 25; *Cook* v *Davis* (C. A. 5th 1949), 178 F. 2d 595, 599; *Williams* v *Kansas City* (D C. Mo 1952), 104 F. Supp. 848, 857 (7, 8); *Brown* v. *Ramsey* (C. A 8th 1950), 185 F 2d 225

Constitutional rights have always been considered vital, personal rights, and to permit others to come into court asserting them can only result in their cheapening and the worsening of Federal-State relations.

When Attorney General Brownell testified before the House Judiciary Committee on April 10, 1956, he attempted to justify the grant of injunctive powers on the ground that criminal proceedings always produce strong public indignation and promote friction He stated:

"And another point: Criminal prosecution for civil-rights violations, when they involve State or local officials, as they often do, stir up an immense amount of ill feeling in the community and inevitably tend to cause very bad relations between State and local officials on the one hand, and the Federal officials responsible for the investigation and prosecution on the other. And we believe that a great deal of this could be avoided, and should be avoided, if Congress would authorize the Attorney General to seek preventive relief from the civil courts in these civil-rights cases."[6]

The Attorney General then referred to the strong indignation which was provoked in one county as a result of an FBI investigation regarding alleged discrimination in jury service Although the specific case was not named, he undoubtedly had reference to *Reece* v. *Georgia* (350 U. S 85, 76 S Ct 167), in which protest was justifiably made by members of the Georgia delegation as well as local officials when an FBI investigator suggested to the Cobb solicitor general that the State not retry this brutal, twice-convicted rapist, although the issue of jury service by Negroes had nothing to do with the accused's guilt, and the Court's decision itself merely reversed a judgment sustaining a demurrer to the motion to quash

Needless to say, the FBI finally gave Cobb County a clean bill of health, and the prisoner has since been executed.

However, if, as Mr Brownell admits, criminal proceedings always cause strained feelings in any given area, it would seem that injunctive proceedings would cause even more friction When injunctions are issued, it puts the Court in a more or less administrative position, and ultimately may involve criminal proceedings as well as civil. Whereas regular criminal proceedings are always against an individual, injunctions are brought against officials requiring official action, and brings the State and Federal Governments into sharper conflict than any isolated criminal prosecution ever could

Obviously, the undisclosed purpose behind this particular provision is to authorize overambitious Federal courts to issue blanket injunctions against whole communities, and deprive them of the sacred right of jury trial under the guise of exercise of equitable jurisdiction. In effect, it is a disguised attempt to enforce criminal laws by injunction, and thereby deprive our citizens of jury trial.

H. R 2145 and H R 1254 would amend title 18, United States Code Annotated, section 241, so as to extend its coverage to "inhabitants" and not just citizens. This section relates only to rights and privileges "secured" to a person; i. e., those that devolve directly on the person from the Constitution rather than the State-conferred rights which the 14th amendment merely requires be given equal to all, and subject to the due-process clause.

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[6] See transcript of hearing, p 15

Paragraph (b) of section 201 of these 2 bills would extend section 241 to cover similar crimes committed by only 1 person, whereas paragraph (a), the present provision, covers only conspiracies.

Here, again, the cumulative effect of this extension of Federal power is unjustified at a time when its need is least felt. As pointed out in the *Slaughter House* cases, the Federal-State balance has already been upset enough by the 14th amendment and existing laws. In the nature of things, it is impossible to predict accurately the effect of any one law, but it is unquestionable that each successive whittling down of State authority, whatever the intervening time between steps, will eventually lead to one strong centralized government which, in a country as large and powerful as ours, will be uncontrollable.

The same reasoning applies to the amendment to section 242 of title 18, relating to deprivations, under color of law, of rights secured or protected, by increasing the punishment to fine of $10,000 and imprisonment up to 20 years, where maiming or death of the victim results. This, of course, is an attempt to enact a Federal statute on murder.

It is material to note here that Attorney General Brownell expressly declared before the House committee in 1956 that he was not proposing any amendments to sections 241 and 242 of title 18, which indicated the administration's belief that no such amendments were needed.[6]

H. R. 2145, H. R. 1254, and S. 508 attempt to do exactly what the Court in the Slaughter House cases, supra, said could not be done, and that is to make every violation of State law a Federal offense. This section undertakes to usurp the functions of the courts by defining what shall be considered deprivations of due process and of immunities and privileges. For example, it is declared that "the right to be immune from exactions of fines without due process of law" shall be included within the protection of title 18, United States Code, section 242.

Under this unlimited definition, a judge who makes an error in deciding a case in State court could be prosecuted in Federal court and sentenced to jail because of his honest mistake of judgment as to what constituted a denial of due process. Within recent years, the Supreme Court has consistently expanded the meaning of due process to invalidate State-court procedures which theretofore were upheld. See, for example, *Fikes* v. *Alabama*, decided January 14, 1957, and *Griffin* v. *Illinois* (351 U. S 12, 76 S. Ct. 585). This provision would require a State-court judge to outguess the Supreme Court by predicting what it would eventually hold, on pain of imprisonment.

One provision of these bills makes the illegal obtaining of confessions likewise subject to prosecution. At the 1956 annual meeting of the National Association of Attorneys General, held in Phoenix, Ariz., one of the top executives in the FBI discussed the numerous decisions of the Supreme Court relating to confessions during the last 20 years or so, and, after noting the division in the Court itself in this field, declared that the resulting uncertainty imposes an almost impossible burden on FBI agents to ascertain what the law is. He concluded by remarking that the Court, together with sociologists, had succeeded in taking the handcuffs off the criminals and placing them on law-enforcement officers.

The Court has already held that section 242 applies to the willful extraction of confessions by force and violence (*Williams* v. *U S.* (1951), 341 U. S. 97, 95 L. Ed. 774, 71 S. Ct. 576), and the purpose of the amendment could only be to enlarge this construction to cover situations where there was no willful act, as required in the Screws decision, supra. Otherwise, the amendment is redundant.

Another paragraph of these same bills would make every illegal arrest a Federal offense. In *Snowden* v. *Hughes* (1944) (321 U. S. 1, 11, 88 L. Ed. 497, 504, 64 S. Ct. 397), *Screws* v. *United States*, supra, and in *Hebert* v *Louisiana* (1926) (272 U. S. 312, 316, 71 L. Ed. 270, 273, 47 S. Ct. 103), it was held that not every violation of State law constitutes a denial of due process—that the question of State law is immaterial in determining whether there has or has not been a denial of due process.

The legality of an arrest is determined under State law, and the effect of this proposed paragraph will be to make one arrest a Federal offense in one State while the same arrest would not constitute such an offense in another State. This persuasive factor was expressly referred to in the Hebert case, supra, as being one reason why the question of violation of State law vel non was constitutionally irrelevant in evaluating due-process questions.

[6] Transcript, p. 17.

In *Eylesias* v. *Gulfstream Park Racing Ass'n.* (C. A. 5th, 1953) (201 F. 2d 817, cert. den. 345 U. S. 993), it was held that a mere false and malicious arrest, whatever its legal consequences under State law, did not rise to the level of deprivation of those "fundamental rights" which alone are included within due process. See also *Charlton* v. *City of Hialeah* (C. A. 5th, 1951) (188 F. 2d 423).

There are numerous bills, such as, for example, H. R. 1151, H. R. 2153, H. R. 1254, H. R. 2145, S. 510, and S. 83, which would create a Commission on Civil Rights, to be composed of 5, and in some instances 6, members to be appointed by the President with the approval of the Senate. As pointed out by Congressman Walter in the hearings on a similar bill last year, it is contradictory for this measure to recite the need for study, evaluation, and recommendation as to remedial legislation, while contemporaneously therewith are submitted accompanying provisions which go about as far as conceivably possible in enacting the same legislation about which it is said further study is needed.[1]

Enactment of this legislation would result in creation of a Federal Gestapo which would hold needless investigations, pry into the affairs of the States and their citizens, and intimidate a majority of our citizens solely to appease the politically powerful minority pressure groups inspired by the communistic ideologies of the police state.

For example, as noted in the minority report on H. R. 627, which was before the House last year, it was pointed out that the Commission would have a right to hold hearings in some far-off remote place and require attendance of witnesses at their own expense, as no travel or per diem expenses are provided for. Similarly, the report noted that this bill (as do the ones now under consideration) authorize the Commission to utilize the "services, facilities, and information of other Government agencies, as well as private research agencies," and concluded with the observation that these "private agencies" would probably be NAACP, the American Civil Liberties Union, and other leftwing, partisan, political-action groups.

Thus, the situation would be created where governmental powers would be delegated to these private groups to investigate and harass other citizens and organizations. The awful power of the State would thereby be given to a few as against the many.

No one can imagine what this Commission will cost the taxpayers, as no limitation is put upon its expenditures, but on the contrary, the Commission is authorized "to make such expenditures, as in its discretion, it deems necessary and advisable." Presumably, the Commission might donate public money to the Communist Party, if it determined that such would promote the cause of racial amalgamation.

Before the Congress authorizes the Government to enter into such an unholy partnership with these minority groups, it would do well to study some of their pronouncements.

Save only the Communist Party, with its Southern Manifesto of 1928, the most aggressive proponent of these civil-rights measures is the NAACP, and while this self-proclaimed pious group fervently crusades against prejudice and race bigotry out of one side of its mouth, it conducts a conspiracy against the white man out of the other.

In its national publication, the Crisis (vol 62, p. 493, October 1955) quotes are made gleefully predicting the downfall of the white race, and urging the colored people to revolt and take up arms against their white brothers. It was said, specifically:

"Give him a little more time and the white man will destroy himself and the pernicious world he has created. He has no solutions for the ills he has foisted upon the world. None whatever, he is empty, disillusioned, without a grain of hope He pines for his own miserable end.

"Will the white man drag the Negro down with him? I doubt it. All those who he has persecuted and enslaved, degenerated and emasculated, all of whom he has vampirized will, I believe, rise up against him on the fateful day of judgment There will be no succor for him, not one friendly alien hand raised to avert his doom Neither will he be mourned. Instead there will come from all corners of the earth, like the gathering of a whirlwind, a cry of exultation: 'White man, your day is over. Perish like the worm. And may the memory of your stay on earth be effaced.'"

In its issue of November 1955 (vol. 62, pp. 552–553), the magazine vehemently justifies the merciless slaughtering and raping of innocent white French inhabi-

[1] See transcript of House committee of April 10, 1956, p. 19.

tants in Oued-Zem by the colored Berber tribesmen on the ground that the French inhabitants deserved such treatment

Other bills make provision for a joint House-Senate committee on civil rights. There is no reason apparent as to just why the question of civil rights requires creation of a joint committee, any more than other subjects of legislation, particularly when a Commission on Civil Rights has also been proposed.

I have tried to summarize briefly my objections to the proposed legislation. There are many others which time does not permit me to cover. Beyond this, there are undoubtedly many additional quirks and objectional features which can only be ascertained by judicial application, and particularly is this to be expected from the broad, loose language employed in these bills.

However, the one overriding reason which prompts me to appear here today is my concern for continued existence of this country as one of a national government with limited powers on one hand, and a union of sovereign States on the other which are more responsive to the will of the people in the vast majority of governmental affairs which do not require unity of action. This was the formula conceived by the Founding Fathers to preserve our liberties.

All of these bills come before the Congress concealed in a cloak of self-righteous and pious protestation against bigotry and prejudice by those pressure groups who would wave the Constitution on high whenever it suits their purpose, but who to achieve this purpose would destroy the Constitution by destroying the States. A leading constitutional scholar from the north has written that the 14th amendment itself was adopted by speeches which "aroused the passions of the people, increased their prejudices and hatred and appealed to selfish motives," and that all these appeals were clothed in terms of "rights and justice." See Flack, Adoption of the 14th Amendment, p. 209.

A study of the many and all embracing civil-rights laws presently on the books will readily demonstrate the absence of need for the proposed legislation. The most far-reaching of these statutes today is title 42, United States Code Annotated, section 1985. So recently as 1951, in *Collins* v. *Hardyman* (341 U. S. 651, 656, 95 L. Ed. 1253, 1257, 71 S. Ct. 937), the Supreme Court criticized the unbalance wrought upon our Federal-State system by this statute in the following language:

"This statutory provision has long been dormant. It was introduced into the Federal statutes by the act of April 20, 1871, entitled 'An act to enforce the provisions of the 14th amendment to the Constitution of the United States, and for other purposes.' The act was among the last of the reconstruction legislation to be based on the 'conquered province' theory which prevailed in Congress for a period following the Civil War. * * *

"The act, popularly known as the Ku Klux Act, was passed by a partisan vote in a highly inflamed atmosphere. It was preceded by spirited debate which pointed out its grave character and susceptibility to abuse, and its defects were soon realized when its execution brought about a severe reaction.

"The provision establishing criminal conspiracies in language indistinguishable from that used to describe civil conspiracies came to judgment in *United States* v. *Harris* (106 U. S. 629, 27 L Ed. 290, I S Ct. 601). It was held unconstitutional. This decision was in harmony with that of other important decisions during that period by a Court, every member of which had been appointed by Presidents Lincoln, Grant, Hayes, Garfield, or Arthur—all indoctrinated in the cause which produced the 14th amendment, but convinced that it was not to be used to centralize power so as to upset the Federal system."

The bills now before this committee would go even further than section 1985. If these measures succeed, it will be only a matter of time before the next move will be Federal legislation touching the substantive law of torts, property, and the administration of estates.

I do not conceive it to be the proper function of this Congress or any other branch of the Federal Government to be constantly sniping at the powers and sovereignty of the States, for it is by their remaining sovereign that the liberties of all our people will be best preserved.

Mr. RODINO. Congressman Landrum is in the room and may have something to say.

STATEMENT OF HON. PHIL M. LANDRUM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. LANDRUM. Mr. Chairman, the committee has been gracious enough to allocate to me about 15 minutes for a statement against this.

In view of the fact that we have distinguished and able people up here from Georgia that wish to testify, I would like to enter into the record at this time my opposition to this legislation and defer any formal statement on the matter until a later date when we have general debate, and respectfully request the committee to allocate whatever time it might have given me to my distinguished friend, the attorney general of Georgia, Mr. Cook, and my distinguished friend from Macon, Mr. Charles Bloch.

Mr. RODINO. That will be done.

Mr. FORRESTER. Mr. Chairman, I want to have the pleasure of presenting to the subcommittee at this time one of our most distinguished citizens of the State of Georgia. It would be entirely too verbose for me to try to enumerate the many honors that have been conferred upon him and the honors he has conferred upon our State and our Nation. I will content myself by saying that he is a graduate of the University of Georgia, a member of the Georgia State Board of Regents, chairman of our judicial council, former president of the Georgia Bar Association, and I am sure the chairman will recognize him as the spokesman who presented for the President of the United States in the 1948 Democratic Convention the name of Hon. Richard B. Russell, of Georgia. He was not successful in the candidacy he espoused but his speech was heard throughout the land and people from the North, South, East, and West still refer to it as one of the greatest speeches that was ever made in a Democratic convention.

Now, Mr. Chairman, I think that is a great honor because we have had many, many great speeches at the conventions of our Democratic Party.

Mr. Chairman, it is with much pleasure and pride that I present at this time the gentleman who is perhaps the greatest lawyer in the entire State of Georgia, my good friend, Charles Bloch, of Macon.

The CHAIRMAN. Mr. Charles J. Bloch, we will be very glad to hear from you.

It is interesting to hear these compliments piled on you and I am sure you will live up to them.

STATEMENT OF CHARLES J. BLOCH, ATTORNEY, MACON, GA.

Mr. BLOCH. Thank you, sir. Thank you, Mr. Forrester.

May I ask you, Mr. Chairman, and the other gentlemen of the committee present, if you want to ask me any questions I will be glad to try to answer them, but you might have to speak a little louder to me than the chairman spoke then. I want to thank you, sir, and all the members of the committee and the staff for the extreme courtesies that have been shown to me during my attendance here this week. I have been here all week. I have listened to most of the testimony because this is a subject in which, as a lawyer of the South, I am tremendously interested. I practice law in Macon, Ga. I was born in Baton Rouge, La., in 1893.

The CHAIRMAN. You are still a young man.

Mr. BLOCH. Yes; I still am. I have lived in Macon since 1901 and practiced law there since 1914. I guess I am sort of a reactionary because I may break a record next July if a young gentleman succeeds in passing the Georgia bar examination after having graduated from the University of Virginia. I will have practiced law in Macon with four generations of the same family.

When I started out in Macon in the practice of law as a law student, this young man's great-grandfather was then the senior member of the firm and he had been an Assistant Attorney General, I believe, under President Grover Cleveland.

I have been president of the Georgia Bar Association and I have been chairman of the Judicial Council of Georgia and have been practically so since its creation in 1945. I have been a member of the board of regents of the university system of Georgia since 1950 and am now chairman of its committee on education. I am also first vice president of the States' Rights Council of Georgia.

I might interpolate there that I noticed in the report of the committee on House bill 627 in the last session that reference was made to the case of King against Chapman. The Chapman in that case was the chairman of the Democratic National Committee of Muscogee County, Ga., in which Columbus was located, and I was counsel for that committee in that case which we tried to get to the Supreme Court of the United States.

I advert to that now because later in the paper that I have written there is a reference to certain cases which control King against Chapman.

On February 4, at the outset of the hearings, his honor, the chairman, said:

> I know how difficult it is to lay aside the concepts of past thinking on the subject of these civil rights and the standard of definition. I am aware how passionately certain convictions on this subject are held in the southern region of our country.

I am not here to quarrel with anybody. I am here as a lawyer in the hope that with you gentlemen on the committee, all being lawyers, maybe we can make some progress toward thrashing out these very, very difficult subjects. I am here to express opposition to H. R. 1151 and H. R. 2145, and the numerous bills declaring, more or less, the same principles as are embodied in those bills and, at the outset, I say to you that the South does passionately hold to a certain conviction—a conviction that the Constitution of the United States, as written and as construed over scores of years, is the supreme law of the land, and that that Constitution can only be amended as provided therein. It cannot constitutionally and legally be amended by "an enactment of the Supreme Court." I had that in quotation marks because I heard one of the gentlemen refer on Monday to the "enactment of the Supreme Court."

I say to you, too, that I do not think that the southern region of our country stands alone in this fundamental conviction.

The chairman also said:

> Certainly, the Supreme Court decision, which is the law of the land, spoke of "deliberate speed." That must be accepted as the law of the land and be binding as such on all of us. The old, shibboleth of "separate but equal" has been negated by the Supreme Court.

Mr. Chairman, that "old shibboleth" was announced by the Supreme Court of the United States in *Plessy* v. *Ferguson* (163 U. S.), decided in 1896. It was repeatedly followed in later cases, e. g., *Chesapeake and Ohio Ry. Co.* v. *Kentucky* (179 U. S. 388 (1900)); *Chiles* v. *Chesapeake & Ohio Ry. Co.* (218 U. S. 71 (1910)); *McCabe* v. *A. T. & S. F. Ry. Co.* (235 U. S. 151 (1914)). That "old shibboleth" was announced by these stalwarts of the law: Justices Brown, Field, Gray, Shiras, White, Peckham, and Chief Justice Butler.

I believe one of those, Justice Edward Douglas White, was a southerner. All the rest were from other sections of the country.

It was based, to a large extent, on *Roberts* v. *City of Boston* (5 Cushing 198), a decision of the Supreme Judicial Court of Massachusetts. It was also based on another case up to a large extent. It was based on the case *In relation to King* v. *Gallagher*, which appears in volume 93 of the New York Reports at page 438.

I am sorry that the other gentlemen of the committee from New York are not here, but I am glad that, if we had to narrow it down to 2, we have 2 distinguished New York lawyers present as members of the committee.

This case, Mr. Chairman, held this, and this is one of the cases upon which *Plessy* v. *Ferguson* was based. If you will read *Plessy* v. *Ferguson* and read the subsequent case, decided by Chief Justice Taft in 1927, you will see that the basis of those two decisions and of all the decisions that followed—*Plessy* v. *Ferguson* is a Massachusetts case and the New York case and certain cases from Indiana and Ohio, but I am particularly interested in discussing with you this New York case, decided in 1883.

Under the provisions of the Common School Act of 1864, authorizing the establishment of separate schools in the education of the colored race in cities and incorporated villages, the school authorities therein have power, when in their opinion the interest of education will be promoted thereby, to establish schools for the exclusive use of colored children, and when such schools are established and provided with equal facilities for education, they may exclude colored children from the schools provided for the whites. The same power is given to the board of education of the city of Brooklyn by the acts relating to the public schools of that city.

The establishment of such separate schools for the exclusive use of the different races is not an abridgment of the privileges or immunities preserved by the 14th amendment of the Federal Constitution, nor is such a separation a denial of the equal protection of the law given to every citizen by that amendment.

It seems that the privileges and immunities which are protected by the amendment are those which belong to the citizen as citizens of the United States. Those which are granted by a State to its citizens and which depend solely upon State laws for their origin and support are not within the constitutional inhibition and may be lawfully denied to any class or race by the State at its will and discretion.

It seems also that the privilege of receiving an education at the expense of the State is created and conferred only by State law. It may be granted or refused to any individual or class at the pleasure of the State.

Said statutory provisions were not repealed by the Civil Rights Act of 1837. They do not deprive colored persons of the full and

equal enjoyment of any combination, advantage, facility, or privilege within the meaning of that act, nor do they discriminate in any manner against them.

All that is required by said act, said your court, Mr. Chairman, or by the constitutional amendment, if applicable, is the privilege of obtaining an education under the same advantages and with equal facilities as those enjoyed by any other individual. Equality and not identity of rights and privileges is what is guaranteed to the citizen.

No southern judge could ever have expressed it any better.

That opinion, Mr. Chairman, was written by Judge Ruger, chief judge of the Court of Appeals of New York, and concurred in by all of the judges who comprised the court at that time except Judges Danforth and Finch.

The CHAIRMAN. Mr. Bloch, of course that opinion is no longer the law of the State of New York because we have decisions in the State of New York which negate that old decision, which was based upon the very decisions that you cite on page 2 of your statement, on the theory of "separate but equal." The old order is giving place to new, and time marches on, and our court of appeals would not make any assertion of that character any longer.

Mr. BLOCH. May I say two things, there, Mr. Chairman? Time marches on but the Constitution of the United States of America does not change except as changed by the method provided therein by amendment.

The CHAIRMAN. The Constitution is subject to interpretation. For example, the Constitution never envisaged atomic energy or radio or television, yet it is applicable to those phases of American life and requires interpretation by the judges who may be sitting at a particular time. The Supreme Court has frequently reversed itself on constitutional questions.

You will remember, of course, not so long ago the Supreme Court in the Southeastern Underwriters case reversed a decision that had been on the statute books for 60 years, the old case of Paul against Virginia, which latter case says that, for example, insurance was not commerce.

Then in the Southeastern Underwriters case, the Supreme Court completely reversed that old decision and said that insurance is commerce.

I can recite many, many other cases where the Supreme Court has put a different interpretation on the Constitution, different from that which they had placed upon it years before that.

Mr. BLOCH. Which proves our point, Mr. Chairman, that no decision of the Supreme Court of the United States, even Brown against Topeka, can be said to be the law of the land.

The CHAIRMAN. Until it is reversed or changed or modified, it is the law of the land.

Mr. BLOCH. It is the law of the land as between the parties to it and must be obeyed as such until it is reversed. Another thing, Mr. Chairman, you stated, I believe, to me in your question that this decision was no longer the law of the State of New York; is that right?

The CHAIRMAN. That is right.

Mr. BLOCH. Why isn't it?

The CHAIRMAN. Because we have passed statutes in New York which run counter to that decision.

Mr. BLOCH. You mean the State of New York passed statutes which negated this decision?

The CHAIRMAN. Which negated the idea that separate but equal school facilities are constitutional. We have changed our statute so that now there must be integration and there cannot be segregation.

Mr. BLOCH. In other words, what the State of New York did was, as a State, under the 10th amendment to the Constitution of the United States, under the powers reserved to the State of New York by the 10th amendment, the people of the State of New York, acting through their proper legal authorities, their legislature, negated this case. Why do you deny to the State of Georgia that same right?

The CHAIRMAN. That is not the case, Mr. Bloch. That decision that you read from is predicated on certain statutes that existed that were applicable to the city of New York and the then city of Brooklyn, from whence I hail. The Court held that those statutes were constitutional. Now comes along the New York State Legislature and changes its statute, or charges those very statutes which were applicable to those geographical areas that you spoke of. The courts have held that those new provisions, those amendments to the educational law of the State of New York are legal and constitutional.

The New York State Legislature did not change the Constitution. The New York State Legislature simply amended the previous statutes.

Mr. BLOCH. The State of New York amended its previous statutes and thus cut the foundation out from under the case. Is that right, sir?

The CHAIRMAN. No. It simply amended the statutes so that the Constitution, as interpreted relative and vis-a-vis those statutes is no longer applicable to the new statutes with that same interpretation.

Mr. BLOCH. What right did the State of New York have to pass those statutes? That is a rhetorical question. It had the right under the power reserved to it under the 10th amendment of the Constitution to manage its own internal affairs.

The CHAIRMAN. No. The Supreme Court now, if confronted with those old New York State statutes, would decide the case, I presume, as exactly as they now did in the famous desegregation case and would strike down those old statutes, if applicable now.

Mr. HOLTZMAN. In other words, assuming that we had that old New York law still in effect, we would be obliged to integrate by virtue of the Supreme Court decision, because until changed, and I quote you, "it is the law of the land."

Mr. BLOCH. But, Mr. Holtzman, what I am trying to say to you is this: In 1883, when this decision was rendered by the Court of Appeals of New York, your highest court, you had segregation statutes in the State of New York; didn't you?

Mr. HOLTZMAN. Yes; that is correct.

Mr. BLOCH. You had segregation statutes since the act of 1864. Those segregation statutes were repealed by your legislature; were they not?

Mr. HOLTZMAN. That is correct.

Mr. BLOCH. Because they thought that the best interests of the people of the State of New York no longer required those statutes to be on the books.

Mr. HOLTZMAN. That is correct.

Mr. BLOCH. Why don't you give us the same right down in Georgia of keeping our statutes on the book?

Mr. HOLTZMAN. Because we have one additional feature now. The highest court in the land has ruled against it. That is why.

Mr. BLOCH. Let us have our fight with the highest court of the land, but don't try to interfere with us having the same rights to manage our internal affairs that you have had to manage yours.

Mr. HOLTZMAN. If the Supreme Court had ruled at the time that we had segregation in New York that segregation was unconstitutional, New York State would have had no right to decide otherwise within the confines of its own legislature.

Mr. BLOCH. The State of New York, like the State of Georgia, under the present decision of the Supreme Court of the United States, in the case of May 17, I believe, 1954, would not be permitted to use public funds for the operation of segregated schools. There is not one syllable in that decision or any other decision of the Supreme Court of the United States which says that any State must have integrated schools. You may think that is a distinction without a difference.

Mr. HOLTZMAN. It is just that, a distinction without a difference. If you say it, Mr. Bloch, I am delighted to accept your interpretation.

Mr. BLOCH. But the Supreme Court of the United States may be able to say to the State of Georgia, "You can't use your public funds to operate a segregated school system." But the Supreme Court of the United States can't make the State of Georgia operate an integrated school system under the present Constitution.

As a basis for something that I am going to say a little further on, if you gentlemen will permit me, I want to read you just a little of what Judge Ruger said in this case. He said, at page 448, and may I make as part of the record the whole opinion without reading the whole opinion?

The CHAIRMAN. Mr. Bloch, you have the privilege of extending or revising your remarks in any way you wish.

THE PEOPLE EX REL. THERESA B. KING, BY GUARDIAN, ETC., APPELLANT, *v.* JOHN GALLAGHER, PRINCIPAL, ETC., RESPONDENT

Under the provisions of the Common School Act of 1864 (§ 1, tit. 10, chap. 555, Laws of 1864), authorizing the establishment of separate schools for the education of the colored race, in cities and incorporated villages, the school authorities therein have power, when, in their opinion, the interests of education will be promoted thereby, to establish schools for the exclusive use of colored children; and when such schools are established and provided with equal facilities for education, they may exclude colored children from the schools provided for the whites (DANFORTH and FINCH, JJ., dissenting).

The same power is given to the board of education of the city of Brooklyn by the acts relating to the public schools of that city (Chap. 143, Laws of 1850; § 1, tit. 16, chap. 863, Laws of 1873). (DANFORTH and FINCH, JJ., dissenting.)

The establishment of such separate schools for the exclusive use of the different races is not an abridgement of the "privileges or immunities" preserved by the fourteenth amendment of the Federal Constitution, nor is such a separation a denial of the equal protection of the laws given to every citizen by said amendment.

The said statutory provisions, therefore, were not abrogated by said amendment (DANFORTH and FINCH, JJ., dissenting).

It seems that the "privileges and immunities" which are protected by said amendment are those only which belong to the citizens as a citizen of the United States; those which are granted by a State to its citizens and which depend solely upon State laws for their origin and support are not within the constitutional inhibition, and may lawfully be denied to any class or race by the State at its will and discretion (DANFORTH and FINCH, JJ., dissenting).

It seems, also, that as the privilege of receiving an education at the expense of the State is created and conferred only by State laws, it may be granted or refused to any individual or class at the pleasure of the State (DANFORTH and FINCH, JJ., dissenting).

Said statutory provisions were not repealed by the Civil Rights Act of 1873 (Chap. 186, Laws of 1873); they do not deprive colored persons of the "full and equal enjoyment of any accommodation, advantage, facility or privilege," within the meaning of said act; nor do they discriminate in any manner against them (DANFORTH and FINCH, JJ., dissenting).

All that is required by said act, or by the constitutional amendment, if applicable, is the privilege of obtaining an education under the same advantages, and with equal facilities, as those enjoyed by any other individual. Equality, and not identity of rights and privileges, is what is guaranteed to the citizen (DANFORTH and FINCH, JJ., dissenting).

Board of Education v. *Tinnon* (26 Kans. 1), *Clark* v. *Board of Directors, etc.* (24 Iowa, 266), *Smith* v. *Directors, etc.* (40 id. 518), *Dove* v. *Ind. School Dist.* (41 id. 689), *People, ex rel. Longress* v. *Bord of Education* (101 Ill. 308, 40 Am. Rep. 196), *People* v. *Board of Education* (18 Mich. 400), *C R R. Co.* v. *Green* (86 Penn. St. 421; 27 Am. Rep. 718), *Decuir* v. *Benson* (27 La. Ann. 1), *Donnell* v. *State* (48 Miss. 680; 12 Am. Rep. 375), *Coger* v. *N. W. Union Packet Co.* (37 Iowa, 145), *R. R. Co.* v. *Brown* (17 Wall. 446), *Strauder* v. *W. Va.* (100 U. S. 303), distinguished.

(Argued June 18, 1883; decided October 9, 1883.)

APPEAL from order of the General Term of the City Court of Brooklyn, which affirmed an order of Special Term denying a motion for a writ of *mandamus* requiring defendant, as principal of public school No. 5, in the city of Brooklyn, to admit the relator to said school.

The material facts are stated in the opinion.

F. W. Catlin for appellant. Defendant was the proper person against whom to ask for a *mandamus*. (77 N. Y. 503–507; Morse on Banking, 137; *People* v. *Throop*, 12 Wend. 184; High's Extraordinary Legal Remedies, 217, § 311). The action of the committees of the board of education and the principal of the school in excluding relator on the ground of color was unauthorized. (Laws of 1850, chap. 143, § 6, *Thompson* v. *Schermerhorn*, 6 N. Y. 92; *Birdsall* v. *Clark*, 73 id. 73; *People* v. *Throop*, 12 Wend. 184; *People* v. *Board of Education*, 18 Mich. 400; *Ward* v. *Flood*, 48 Cal 36; 17 Am Rep. 405; *Dallas* v *Fosdick*, 40 How. Pr 254; *Cory* v. *Carter*, 48 Ind 327; 17 Am. Rep. 738; *Beaty* v. *Knowles*, 4 Pet. 152; *Wright* v *Briggs*, 2 Hill, 77; *People* v. *Lambier*, 5 Den. 9; *Sharp* v. *Spier*, 4 Hill, 76.) The prohibitions of the fourteenth amendment are addressed to the States, and have the effect of invalidating any State law in conflict with them. (*Ex parte Virginia*, 10 Otto, 339–346; *Virginia* v. *Rives*, id. 313–318; *Neal* v. *Delaware*, 13 id. 370; *Strauder* v. *W. Virginia*, 10 id. 303, 309; *Slaughter-House Cases*, 16 Wall. 36; *Board of Education* v. *Tinnon*, 25 Alb. L. J. 289; *R. R. Co.* v. *Brown*, 17 Wall. 446; *Board of Education* v. *Tinnon*, 26 Kans. 1; 25 Alb. L. J. 289). The Civil Rights Act of this State, passed in 1873 (Chap. 186), repealed and annulled any law existing at the date of its passage, if any then existed, which authorized the exclusion of children from the public schools, or discrimination against them, solely on account of color. (Comm. on Written Laws, §§ 82, 192, *Board of Education* v. *Tinnon*, 26 Kans. 1; 25 Alb. L. J. 288; *Clark* v. *Board of Directors*, 24 Iowa, 266; *Smith* v. *Directors*, 40 id. 518; *Dove* v. *School District*, 41 id. 689; *People, ex rel.* v *Board of Education*, 101 Ill. 308, *People* v. *Board of Education*, 18 Mich. 400; *Cent. R. R. Co.* v. *Green*, 86 Penn St. 421; *Decuir* v *Benson*, 27 La. Ann. 1, *Donnell* v. *State*, 48 Miss. 680, *Coger* v. *Un. Packet Co.*, 37 Iowa, 145.)

F. E Dana for respondent The granting of a writ of *mandamus* is in the discretion of the court to which the application is made. (*Matter of Sage*, 70 N Y. 220; *People, ex rel. Faile*, v *Ferris*, 76 id 326, *Matter of Gardner*, 68 id. 467; *Ex parte Fleming*, 4 Hill, 581; *People* v *Common Council*, 78 N. Y. 56; *Van Rensselaer* v *Sheriff*, 1 Cow 501, *People* v *Contracting B'd*, 27 N. Y. 378.) It will issue only in a case of clear and not of doubtful right. (*Matter of Gardner*, 68 N Y 467, *People* v *Croton Aqueduct*, 49 Barb. 259; *Reeside* v. *Walker*, 11 How. [U S] 272 *People* v *Leonard*, 74 N Y 443, *People* v. *Common Council*, 78 id 56) Generally it will not issue when the relator has a legal remedy by action for damages (*Matter of Gardner*, 68 N Y. 467; *People* v. *Sup'rs*, 11 id 563, *People* v. *Mayor*, 10 Wend 393, *People* v *Easton*, 13 Abb. [N S] 159, *Robinson* v. *Chamberlain*, 34 N Y 389; *Howland* v. *Eldridge*, 43 id.

457; *Oneida C. P.* v. *People*, 18 Wend. 79; *People* v. *Leonard*, 74 N. Y. 443; *People* v. *Common Council of Troy*, 78 id. 33.) This proceeding was improperly brought against the respondent, who was but a mere employe of the board of education of the city of Brooklyn. (*Matter of Gardner*, 68 N. Y. 467.) The board of education had the right to establish separate schools for colored children and to assign colored children living contiguously thereto to attend them. (Laws of 1873, chap. 420; Laws of 1864, chap. 555, § 12; Laws of 1850, chap. 143, § 4; Laws of 1843, chap. 63; Laws of 1845, chap. 306; Laws of 1849, chap. 140; Laws of 1864, chap. 155, title 13, § 14; title 7, article 5, § 39; Gilmour's Code Public Instruction, 385.) Neither the Constitution nor the fourteenth amendment affect the rights of the relator or apply to this case. (*Slaughter-House Cases*, 16 Wall. 36; *Hall* v. *DeCuir*, 5 Otto, 485; *Missouri* v. *Lewis*, 101 U. S. 22; *People* v. *Easton*, 13 Abb. [N. S.] 159; *State* v. *McCann*, 21 Ohio, 198; *Cory* v. *Carter*, 17 Am. Rep. 738, 766; Acts session 1, 39 Cong. 222, July 23, 1866; Acts session 1, 39 Cong. 354, July 28, 1866; Acts session 3, 42 Cong. 260, March 3, 1873; *Wood* v. *Flood*, 17 Am. Rep. 405; *Dallas* v. *Fosdick*, 40 How. 249; *State* v. *Duffy*, 8 Am. Rep. 713; Roome's Law of Corporations, § 323; 10 Federal Reporter, 730; *Roberts* v. *City of Boston*, 59 Mass. 198; *B'd of Edn. of Ottawa* v. *Turner*, 25 Alb. L. J. 288.) The act of 1873 (Chap. 186), known as the Civil Rights Act does not interfere with the right of the board of education to establish colored schools and assign colored children thereto. (*People, ex rel. Johnson*, v. *Welch*, Sept. 1875, MSS. op.; *People* v. *Easton*, 13 Abb. [N. S.] 159.)

Opinion of the Court, per RUGER, Ch. J.

RUGER, Ch. J. The relator applied to the court below at a Special Term of the City Court of Brooklyn for a writ of *mandamus* against the respondent, then the principal of public school No. 5 of that city, after a refusal to compel him to admit her to the privileges of a pupil at such school, which application was denied. This appeal is brought from the affirmance of such decision by the General Term of that court.

The relator is a colored female about twelve years of age, residing in public school district No. 5, of the city of Brooklyn, and would be entitled to attend that school but for the regulations of its board of education. By such regulations, schools for the exclusive use of its colored population of equal grade and educational advantages with its other schools were established at convenient and accessible points, and the colored children residing in said city were duly assigned to the respective schools provided for them. One of these schools, and being that which the relator was assigned to attend, was located in the same school district in which she resided.

These schools have been presumably established and conducted for a period of years, and their adaptation to the accomplishment of the most efficient purposes of education has been subjected to the test of actual experiment and trial without any claim being made but that the system adopted has contributed to the best interests of both classes. The relator, however, complains, not but that she is receiving the highest educational advantages that the city is capable of giving her, but that she is not receiving those facilities at the precise place which would be the most gratifying to her feelings.

The question broadly stated presented by this appeal is whether the school authorities of that city have the right to classify the pupils in such schools in the administration of their authority to regulate the methods of education pursued therein, or whether the provisions of the Constitution of the United States require that each person attending such school, shall, without regard to sex, color, or age, be awarded upon demand the same privileges in the same places and under the same circumstances as those enjoyed by any other scholar therein.

Such school authorities have determined, in the exercise of their discretion, that the interests of education may be best promoted by the instruction of scholars of different races in separate schools; and the question is now presented whether they are debarred by the law of the land from adopting those methods which in their judgment are the wisest and most efficient to accomplish the purpose intended.

Under our common school system its supervising authorities are necessarily invested with the exclusive right of determining all such questions as pertain to the exercise of the discretionary powers conferred upon them, and the natural and legal presumption in favor of the conscientious performance of official duty requires us to assume, in the absence of any evidence to the contrary, that the classification in question inures to the educational advantage of the community.

That our common school system should be administered to the best advantage for all interests the most casual reflection as well as the uniform practice in educational institutions shows that its school authorities should be vested with large discretionary power in arranging and classifying the various departments of public instruction, to adapt them to the diversified capacity, disposition and needs of the numerous persons they are required to govern and instruct, and any arbitrary interference with the exercise of such discretion, it is obvious, must be productive of injury to the cause of education

It would be unfortunate if it should be found that any imperative rule of law prevents those who are charged with the management of the common schools of the State, from adopting such arrangements for instruction as their experience had shown to be adapted to the highest educational interests of the people. Upon referring to the various statutes on the subject, we find that the regulations referred to are fully authorized by the laws of this State relating to the management and control of its public common schools. Section 1 of title 10 of chapter 555 of the Laws of 1864 specially provides for the establishment of separate schools for the education of the colored race, in all of the cities and villages of the State, wherever the school authorities of such city or village may deem it expedient to do so The act containing this provision has been, since its enactment, frequently before the legislature for amendment, and the provision in question has apparently been frequently approved by them, and now remains unchanged The system of authorizing the education of the two races separately has been for many years the settled policy of all departments of the State government, and it is believed obtains very generally in the States of the Union

The common schools of Brooklyn are organized and conducted under a special act relating to that city, contained in chapter 143 of the Laws of 1850, which confers upon the board of education of such city "the entire charge and direction of all its public schools," and the right to "make its own bylaws, keep a journal of its proceedings, define the duties of its officers and committees and prescribe such rules and regulations for instruction and discipline in the said public schools as are not inconsistent with the laws of the State" Section 4 of this act reads as follows: "The board of education shall have power to organize and establish schools for colored children, and such evening schools as it may from time to time deem expedient, and shall adopt the necessary rules for the government of the same" "No person shall be prohibited from attending the evening schools on account of age."

The powers conferred upon the board of education by this act were, by section 1, title 16, chapter 863 of the Laws of 1873, made applicable to the reorganized department of public institutions for such city, created by said act

This law has, therefore, been in existence for over thirty years, and its operation and effect have hitherto been found unobjectionable and apparently satisfactory to all parties It thereby appears that the board of education of Brooklyn possesses full legislative authority, in the exercise of its discretionary powers, to maintain separate schools for the education of white and colored children in that city, and the consequent power to render effectual, by the exclusion of one class from the schools designed for the other, of the discretion in regard to that subject which is conferred upon them by the statute All of the powers necessary to accomplish the object which the legislature had in view in authorizing separate places of education for individuals of different color must be intended to have been granted when the authority to establish such schools was conferred.

The mere right of establishing such separate schools, stripped of the power of determining the persons who might or might not attend them, would be a barren power, productive of no beneficial result, and destructive of the effect of the legislation referred to

Neither is there any force in the claim made by the relator, that the act excluding her from common school No. 5 was not the act of the board of education of Brooklyn. Such a claim is not made in the petition or affidavit upon which her application is founded, and the case was heard upon the return of the respondent, in which it was distinctly asserted that the exclusion of the petitioner from public school No. 5 was effected in pursuance of the orders and instructions of the board of education of the city of Brooklyn This statement was not controverted by the petitioner, and for the purposes of this appeal must be assumed to be true

Having seen that the action of the respondent under the authority of the board of education, in excluding the relator from the school for white children, was justified by the statute of this State, it remains only to inquire whether such statutes have been repealed by the legislature or annulled by the paramount

authority of the Constitution of the United States. It is claimed by the counsel for the relator that these statutes have been abrogated by the adoption of the fourteenth amendment to the Federal Constitution, which took effect in July 1868. The determination of this appeal depends mainly upon the effect to be given to the provisions of this amendment. It reads as follows: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." On the 20th day of March 1870, a further amendment to the Federal Constitution was adopted, which provided that "the right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color or previous condition of servitude."

The argument of the appellant's counsel is to the effect that the fourteenth amendment, under the laws of this State, giving equal privileges in its common schools to every citizen, confers upon the relator not only the right of equal educational facilities with white children, but that such education shall be furnished at the same time and place with that afforded to any other child, otherwise it is claimed that she is abridged of some "privilege or immunity" which of right belongs to her, or that she is denied the equal protection of the law.

The history of this amendment is familiar to all, and for all of the purposes of this argument may be briefly summarized. At the time of its adoption the colored race had been recently emancipated from a condition of servitude and made citizens of the States. It was apprehended that in some, if not all, of the States of the Union, feelings of antipathy between the races would cause the dominant race, by unfriendly legislation, to abridge the rights of the other, and deny to them equal privileges and the protection of the laws. To guard the previously subject race from the effect of such discrimination, these provisions are made a part of the fundamental law of the land, and their rights were placed under the protection of the Federal government. Their object has been defined by Mr. Justice STRONG in *Ex parte Virginia* (100 U. S. 344), where it is said that "one great purpose of these amendments was to raise the colored race from that condition of inferiority and servitude, in which most of them had previously stood, into perfect equality of *civil rights* with all other persons within the jurisdiction of the States." The same learned judge in *Strauder* v. *West Virginia* (100 U. S. 306), also says: "It was designed to assure to the colored race the enjoyment of all of the *civil rights* that, under the law, are enjoyed by white persons, and to give that race the protection of the general government, in that enjoyment, when it should be denied by the States."

It will be observed that the language of the amendment is peculiar in respect to the rights which the State is forbidden to abridge. Although the same section makes all persons born or naturalized in the United States, and subject to the jurisdiction thereof, citizens of the United States and of the State wherein they reside, yet, in speaking of the class of privileges and immunities which the State is forbidden to deny the citizen, they are referred to as the privileges and immunities which belong to them as citizens of the Uinted States. It has been argued from this language that such rights and privileges as are granted to its citizens, and depend solely upon the laws of the State for their origin and support, are not within the constiutional inhibition and may lawfully be denied to any class or race by the States at their will and discretion. This construction is distinctly and plainly held in *The Slaughter House Cases* (16 Wall. 36), by the Supreme Court of the United States. The doctrine of that case has not, to our knowledge, been retracted or questioned by any of its subsequent decisions.

It would seem to be a plain deduction from the rule in that case that the privilege of receiving an education at the expense of the State, being created and conferred solely by the laws of the State and always subject to its discretionary regulation, might be granted or refused to any individual or class at the pleasure of the State. This view of the question is also taken in *State, ex rel. Garnes* v. *McCann* (21 Ohio St. 210), and *Cory* v. *Carter* (48 Ind. 337; 17 Ann. Rep 738). The judgment appealed from might, therefore, very well be affirmed upon the authority of these cases.

But we are of the opinion that our decision can also be sustained upon another ground, and one which will be equally satisfactory as affording a practical solution of the questions involved. It is believed that this provision will be given its

full scope and effect when it is so construed as to secure to all citizens, wherever domiciled, equal protection under the laws and the enjoyment of those privileges which belong, as of right, to each individual citizen. This right, as affected by the questions in this case, in its fullest sense is the privilege of obtaining an education under the same advantages and with equal facilities for its acquisition with those enjoyed by any other individual. It is not believed that these provisions were intended to regulate or interfere with the social standing or privileges of the citizen or to have any other effect than to give to all, without respect to color, age, or sex, the same legal rights and the uniform protection of the same laws.

In the nature of things there must be many social distinctions and privileges remaining unregulated by law and left within the control of the individual citizens, as being beyond the reach of the legislative functions of government to organize or control. The attempt to enforce social intimacy and intercourse between the races by legal enactments would probably tend only to embitter the prejudices, if any such there are, which exist between them, and produce an evil instead of a good result. (*Roberts* v *City of Boston*, 5 Cush. 198.)

As to whether such intercourse shall ever occur must eventually depend upon the operation of natural laws and the merits of individuals, and can exist and be enjoyed only by the voluntary consent of the persons between whom such relations may arise, but this end can neither be accomplished nor promoted by laws when conflict with the general sentiment of the community upon whom they are designed to operate When the government, therefore, has secured to each of its citizens equal rights before the law and equal opportunities for improvement and progress, it has accomplished the end for which it is organized and performed all of the functions respecting social advantages with which it is endowed.

The design of the common school system of this State is to instruct the citizen, and where for this purpose they have placed within his reach equal means of acquiring an education with other persons, they have discharged their duty to him and he has received all that he is entitled to ask of the government with respect to such privileges The question as to how far he will avail himself of those advantages, or, having done so, the use which he will make of his acquirements, must necessarily be left to the action of the individual.

The claim which is now made, that any distinction made by law and founded upon difference of race or color is prohibited by the Constitution, leads to startling results and is not believed to be well founded. While the occasion of the enactment of the constitutional amendments was such as we have referred to, its language embraces and is addressed to all classes alike, and if susceptible of the construction attempted to be placed upon it, must inhibit any enactment by the State which classifies the citizens and authorizes associations to be sustained, in whole or in part, by public bounty for the benefit of any special class. (*The Slaughter-House Cases, supra.*) When the large number of such institutions organized, not only in this but in other States of the Union, for the exclusive use and benefit of the colored race, and which have effected much for its improvement and advantage is considered, it is believed that no sincere friend of that people could desire to raise the questions involved in this appeal, or wish any other result than that which should sustain them in the enjoyment of those institutions specially organized for their benefit and advantage.

It would seem to follow, as the necessary result of the appellant's contention, that the action of the legislatures of the various States providing schools, asylums, hospitals, and benevolent institutions for the exclusive benefit of the colored as well as other races, must be deemed to be infractions of constitutional provisions and unlawful exercise of legislative power. The literal application of its provisions as interpreted by him would prevent any classification of citizens for any purpose whatever under the laws of the State, and subvert all such associations as are limited in their enjoyment to classes distinguished either by sex, race, nationality, or creed If the argument should be followed out to its legitimate conclusion, it would also forbid all classification of the pupils in public schools founded upon distinctions of sex, nationality, or race, and which, it must be conceded, are essential to the most advantageous administration of educational facilities in such schools Seeing the force of these contentions, the appellant concedes that discrimination may be exercised by the school authorities with respect to age, sex, intellectual acquirements, and territorial location, but he claims that this cannot, under the Constitution, be extended to distinctions founded upon difference in color or race. We think the concession fatal to his argument.

The language of the amendment is broad, and prohibits every discrimination between citizens as to those rights which are placed under its protection. If the right, therefore, of school authorities to discriminate, in the exercise of their discretion, as to the methods of education to be pursued with different classes of pupils be conceded, how can it be argued that they have not the power, in the best interests of education, to cause different races and nationalities, whose requirements are manifestly different, to be educated in separate places? We cannot see why the establishment of separate institutions for the education and benefit of different races should be held any more to imply the inferiority of one race than that of the other, and no ground for such an implication exists in the act of discrimination itself. If it could be shown that the accommodations afforded to one race were inferior to those enjoyed by another, some advance might be made in the argument, but until that is established, no basis is laid for a claim that the privileges of the respective races are not equal. Institutions of this kind are founded every day in the different States under the law for the exclusive benefit of particular races and classes of citizens, and are generally regarded as favors to the races designated instead of marks of inferiority.

A natural distinction exists between these races which was not created neither can it be abrogated by law, and legislation which recognizes this distinction and provides for the peculiar wants or conditions of the particular race can in no just sense be called a discrimination against such race or an abridgement of its civil rights. The implication that the Congress of 1864, and the State legislature of the same year, sitting during the very throes of our civil war, who were respectively the authors of legislation providing for the separate education of the two races, were thereby guilty of unfriendly discrimination against the colored race, will be received with surprise by most people and with conviction by none. Recent movements on the part of the colored people of the south, through their most intelligent leaders, to secure Federal sanction to the separation of the two races, so far as the same is compatible with their joint occupation of the same geographical territory, afford strong evidence of the wishes and opinions of that people as to the methods which in their judgments will conduce most beneficially to their welfare and improvement.

This appeal has been argued by the appellant upon the assumption that the colored children have been excluded from something to which white children are admitted. This assumption is, we think, erroneous. The case shows that they have been afforded in all respects the same rights and the same advantages that have been awarded to the whites, and there is no more foundation for the claim that they have been excluded from the public schools of Brooklyn than there is for a claim that the pupils of one district, who are confined in their attendance to the district in which they reside, are excluded from its schools, or that the female pupils are excluded from equal privileges, because of their exclusion from male schools, on account of the regulations which require the separate education of the two sexes.

The right of the individual, as affected by the question in hand, is to secure equal advantages in obtaining an education at the public expense, and, where that privilege is afforded him by the school authorities, he cannot justly claim that his educational privileges have been abridged, although such privileges are not accorded him at the precise place where he most desires to receive them. It was quite pertinently said by the court in *Cory* v. *Carter* (48 Ind. 363; 17 Am. Rep. 738): "In our opinion, there would be as much lawful reason for complaint by one scholar in the same school that he could not occupy the seat of another scholar therein at the same time the latter occupied it, or by scholars in the different classes in the same school that they were not all put in the same class, or by the scholars in the different schools that they were not all placed in one class, as there is that white and black children are placed in distinct classes and taught separately or in separate schools."

The fact that by this system of classification one person is required to go further to reach his place of instruction than he otherwise would is a mere incident to any classification of the pupils in the public schools of a large city, and affords no substantial ground of complaint.

It is quite impracticable for the authorities to take into account and provide for the gratification of the taste, or even the convenience of the individual citizen in respect to the place or conditions under which he shall receive an education. In the nature of things one pupil must always travel further to reach a fixed place of instruction than another, and so, too, the resident of one district is frequently required to go further to reach the school established in his own district than a school in an adjoining district, but these are inconveniences incident to any

system, and cannot be avoided. It is only when he can show that he is deprived of some substantial right which is accorded to other citizens and denied to him that he can successfully claim that his legal rights have been invaded.

The highest authority for the interpretation of this amendment is afforded by the action of those sessions of Congress which not only immediately preceded, but were also contemporaneous with, the adoption of the amendment in question.

Exclusive schools for the education of the colored race were originally established in the District of Columbia, by Congress in 1862, since which time that body has, by repeated amendments to the original act, sanctioned and approved not only the constitutionality of such legislation, but also the policy of such a system of education (Chap 151, Laws of Congress 1862; chap. 83, same 1863; chap. 156, same 1864; chap 217, same 1866; chap. 308, same 1873.) The following provision, which constitutes section 16 of chapter 156 of the Laws of 1864, is specially significant: "That any white resident of said county shall be privileged to place his or her child, or ward, at any one of the schools provided for the education of white children in said county, he or she may think proper to select, with the consent of the trustees of both districts, and any colored resident shall have the same rights with respect to colored schools." As far as we have been able to discover, this provision still remains in force, and is the law of the District of Columbia.

The thirty-ninth Congress, which originated and adopted the amendment in question, not only made appropriations and assigned funds for the support of schools in the District of Columbia, established for the education of colored pupils exclusively (Chap 217, Laws of U S., passed July 23, 1866), but they also appropriated moneys for the support of an institution established therein for the exclusive benefit of destitute colored women and children.

If regard be had to that established rule for the construction of statutes and constitutional enactments which require courts, in giving them effect, to regard the intent of the lawmaking power, it is difficult to see why the considerations suggested are not controlling upon the question under discussion.

The question here presented has also been the subject of much discussion and consideration in the courts of the various States of the Union, and it is believed has been, when directly adjudicated upon, uniformly determined in favor of the proposition that the separate education of the white and colored races is no abridgment of the rights of either.

As early as 1849 the subject, under circumstances precisely similar to those existing in this case, was considered by the Supreme Court of Massachusetts in the case of *Roberts* v. *City of Boston* (5 Cush. 198), and the court, Chief Justice SHAW writing, say: "Conceding, therefore, in the fullest manner, that colored persons, the descendants of Africans, are entitled by law in this Commonwealth to equal rights, constitutional and political, civil and social, the question then arises whether the regulation in question which provides separate schools for colored children is a violation of any of their rights." And they there held that it was not, and they further say: "The law has vested the power in the committee to regulate the system of distribution and classification, and where this power is reasonably exercised, without being abused or perverted by colorable pretenses, the decision of the committee must be deemed conclusive. The committee, apparently upon great deliberation, have come to the conclusion that the good of both classes of schools will be best promoted by maintaining the separate primary schools for colored and for white children, and we can perceive no ground to doubt that this is the honest result of their experience and judgment." The Supreme Court of Ohio, in the case of *State, ex rel. Garnes*, v. *McCann* (*supra*), had before them the effect of the constitutional amendment in a case precisely similar to the one at bar, and held by the unanimous opinion of all of the members of that court, that the establishment of separate schools for the education of colored children, and their exclusion from the schools designed for whites alone did not constitute a violation of the rights of colored persons under the Constitution.

The following cases arising in different States may be referred to as supporting the same doctrine: *Cory* v. *Carter* (48 Ind 327; 17 Am Rep 738); *People, ex rel Dietz*, v. *Easton* (13 Abb. Pr [N. S.] 159), *Ward* v. *Flood* (17 Am. Rep. 405); *Dallas* v *Fosdick* (40 How 249); *State, ex rel Stoutmeyer*, v. *Duffy* (8 Am. Rep. 713). These cases show quite a uniform current of authority in favor of that interpretation of the constitutional amendment which we have given to it. We have given careful examination to the various cases cited by the appellant's counsel in support of his argument, and are of the opinion that none of them conflict with the conclusions at which we have arrived. The following cases cited by him arose under statutes which either expressly forbid or did not

authorize the school authorities to separate the races and assign them to different places for instruction: *Board of Education* v. *Tinnon* (26 Kans. 1); *Clark* v. *Board of Directors, etc.* (24 Iowa 266); *Smith* v. *Directors, etc.* (40 id. 518); *Dove* v. *Ind. School Dist.* (41 id. 689); *People, ex rel. Longress*, v. *Board of Education* (101 Ill. 308; 40 Am. Rep. 196); *People* v. *Board of Education* (18 Mich. 400).

The following cases also cited by the appellant are distinguishable from this as arising under the laws of the several States or districts where rendered, which absolutely prohibited the particular act complained of. They did not involve the construction of the constitutional amendments, or the rights of colored persons arising thereunder. *Central Railroad Co.* v. *Green* (86 Penn. St. 421; 27 Am. Rep. 718); *Decuir* v. *Benson* (27 La. Ann. 1); *Donnell* v. *State* (48 Miss. 680; 12 Am. Rep. 375); *Coger* v. *N. W. Union Packet* Co. (37 Iowa 145).

In the case of *Railroad Co.* v. *Brown* (17 Wall. 446), the question arose under a statute which forbid a railroad company from excluding any person "from the cars on account of color." The court construed the act according to their understanding of the intent of Congress in passing the statute, and held that colored people could not be excluded from any car on account of their color. The case of *Strauder* v. *West Virginia* (100 U. S. 303) is strongly pressed upon our attention as an authority by the appellant. We do not consider it to be so. In that case a colored man was placed upon trial for murder, under the laws of a State which excluded colored persons, however competent, from serving as jurors in its courts. It was held that this law discriminated against the colored race, and deprived them of the right of being tried before a jury composed in part at least of persons of their own race, and which right was enjoyed by their white fellow citizens It was rightly held that this statute denied them the equal protection of the law, and was a violation of the constitutional amendment. We can see no analogy between these cases

Having thus attempted to show that principle and authority both concur in the conclusions which we have reached, in regard to the questions presented on this appeal, it only remains to refer to one or two other suggestions bearing less directly upon the questions presented, which have been made for our consideration.

The argument of the appellant's counsel, which is founded upon that clause of the constitutional amendment granting to every citizen the equal protection of the law, must fall with his main argument as being founded upon the unwarranted assumption that this protection has been denied to the relator in this case. Equality and not identity of privileges and rights is what is guaranteed to the citizen, and this we have seen the relator enjoy So also the claim made that the laws of this State authorizing the establishment of colored schools were repealed by the Civil Rights Act (Chap. 186, Laws of 1873) is not well founded. It is not pretended that there has ever been any express repeal of these laws by the act in question, but it is claimed that such school laws containing discrimination against the colored race are impliedly repealed by its enactment.

We are thus invited to hold the school laws repealed by implication, a method frequently condemned, and never favored by the courts.

It is difficult to see how there is any inconsistency even between these several laws. The act of 1873 provides that colored persons shall have "full and equal enjoyment of any accommodation, advantage, facility, or privilege furnished" by the school authorities to other citizens. By another section the use of any term in a statute which discriminates *against* persons of color is repealed and annulled. This statute provides only for equal facilities and advantages for the colored race, and these we have seen the relator under the general school laws of the State enjoys. It also condemns the use of any term in a statute which discriminates *against* colored people. We have attempted to show that the establishment of separate institutions for their education and support was not a discrimination against them.

It will be observed that the statutes nowhere require the school authorities to establish separate schools for the exclusive use of the two races, but they leave that subject to the discretion of such authorities.

Suppose actual experience had demonstrated that on account of the discomforts and annoyances to which a minority are ever subjected on account of race prejudices, the joint education of the two races was detrimental to the interests of one of them, or the wishes of the colored race in favor of separate places of education had been conclusively expressed, would it not be a just and reasonable exercise of the discretion of the school authorities to establish separate schools in such places? and could it in any sense be said, in case that was done, that either race was discriminated against by such exercise of discretion We think

not. It is undoubtedly true that in many localities in this State the school authorities have not availed themselves of their authority to cause separate places of education to be established for the respective races. And in those places the joint education of the races has been carried on. This fact seems to show that this question may safely and fairly be left to their discretion, and in time, where that course may be deemed best, it will be voluntarily adopted by such authorities. Certainly this court cannot determine, as a question of law, that there are not localities in the State in which, under the peculiar animosities affecting that locality the establishment of separate schools for the education of the colored race may not be the wisest and most beneficent exercise of discretion in their favor. The statutes of the State have left that question entirely to the school authorities, and we think have wisely done so. We cannot review the exercise by them of that discretion in any particular instance and determine that they have mistakenly or imprudently discharged the duty which the law has cast upon them.

It is not discrimination between the two races which is prohibited by law, but discrimination against the interests of the colored race. We cannot conceive it to be possible that it can be successfully maintained that in the establishment of schools, asylums, hospitals, and charitable institutions for the exclusive enjoyment of particular races or classes, the founders thereof are justly subject to the imputation of unfriendly conduct toward the class for whom such institutions are designed.

The same legislature which enacted the so-called Civil Rights Bill also reinvested the school authorities of Brooklyn with the power conferred by the previously existing statutes relating to the establishment of colored schools in that city, and it can hardly be implied that they intended by this act to repeal statutes which were immediately thereafter referred to by them as still existing laws.

We have thus, without considering the question as to whether the right to the writ of *mandamus* might not have been within the discretion of the court of original jurisdiction, and therefore unappealable, and the further question as to whether the respondent was the proper person to whom it should be addressed, arrived at the conclusion upon the merits, that the order should be affirmed.

Dissenting opinion, per DANFORTH, J.

DANFORTH, J. (dissenting). I cannot concur in sustaining the judgment appealed from. In my opinion the relator brings her case within the spirit, the intention, and the meaning of the fourteenth amendment of the Constitution of the United States, as she also does within the letter of chapter 186 of the Laws of this State, enacted in 1873, entitled "An act to provide for the protection of citizens in their civil and public rights." It seems to be settled by repeated decisions of the Federal courts that the object of the amendment was not only to give citizenship to colored persons, but by preventing legislation against them distinctly as colored, or on the ground of color, secure exemption against any discrimination which either implies legal inferiority in civil society or lessens the security of their rights, and which, if permitted, would, in the end, subject them while citizens to the degrading condition of an enslaved race. (*Strauder* v. *West Virginia*, 100 U. S. 303; *County of San Mateo* v. *Southern Pacific R. Co.*, 13 Federal Reporter, 722; *Ex parte Virginia*, 100 U. S. 339; *Neal* v. *Delaware*, 103 id. 370; *Virginia* v. *Rives*, 100 id. 313. *United States* v. *Reese*, 92 id. 214.) This amendment became part of the fundamental law in the year 1868, and the statute of this State (*supra*) was passed to carry that object into effect. The first (fourteenth amendment) declares that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, * * * nor deny to any person within its jurisdiction the equal protection of the laws." And it can make no difference in its application whether the regulation which produces that effect is embodied in a law coming directly from the legislature, or is found in an ordinance, or rule, or direction emanating from an officer whose authority to act at all in the matter is derived from the legislature. (*Ex parte Virginia*, *supra*; *Neal* v. *Delaware*, *supra*.)

The statute, however, with more detail and directness, so far as the case in hand is concerned, declares (§ 3) that discrimination against any citizen on account of color, by the use of the word "white," or any other term in any law, statute, ordinance, or regulation then existing in this State, shall be annulled, and secured immunity to him in the future by providing that no citizen should, "by reason of race, color, or previous condition of servitude, be excepted or excluded from the full and equal enjoyment of any accommodation, advantage, facility,

or privilege furnished by," among others, * * * "trustees, commissioners, superintendents, teachers, and other officers of common schools and public institutions of learning." It is unnecessary to spend time in discussing the effect of the amendment as determined by any distinction between citizens of the United States and citizens of the States, or their civil rights in those two characters. For, so far as the relator is interested in the present question as a citizen of the State, and within its limits, she may rely on this law of the State. (*Supra.*) By it the doctrine under which the African race was regarded as of a rank or condition inferior to that of the white was abolished, and we are to see whether the action of the respondent was in violation of the law by which this change was brought about.

It is conceded that the appellant was forbidden to enter school No. 5 because of her color, and she was directed to go to school No. 1, because it was a "colored school." The inquiry, then, was as to the color of the proposed pupil, and the action of the respondent was determined solely by it. I am unable to see why this regulation does not stand upon "a word or term," which, by the very language of the act cited, was forbidden to be used as the means of discrimination. It is as if the respondent had said "white children only can attend this school; you are not white." Was not the relator "excepted or excluded" from the accommodation or privilege afforded by that school by reason only of her "race or color"? Clearly she was. It is argued by the respondent, however, that this does not constitute a discrimination against the relator, because the colored school would, "to the best of his judgment, information, and belief, afford to the relator" every accommodation and facility for learning which she could obtain at the one from which she was excluded.

I find no support for this in the law. It is not provided that the colored pupil shall have furnished to her equal or similar accommodations as the white pupil, but that she shall not be excluded from any accommodation, advantage, facility, or privilege furnished by the officers of common schools; she shall, therefore, have the same, and be denied those schools for no reason save such as would exclude the children of another race. In other words, difference of color of skin, or variety of race shall, as to the accommodations or privileges spoken of in the statute, be deemed not to exist, at least, that the school officer in his official capacity shall be so ignorant of their existence as to take no notice of either, and when he does, and, therefore, excludes from any school a person who, except for such color or race, would be received therein, the discrimination is against that person; the door is shut against her, and that is proscription. In *Ex parte Virginia* (100 U. S. 339) and *Strauder* v. *West Virginia* (id. 303) it is in substance said that one great purpose of the then recent amendments to the Constitution was to remove the colored race from a condition of inferiority and servitude into perfect equality of civil rights with all other persons within the jurisdiction of the States; that they were intended to take away all possibility of oppression by law because of race or color, and amounted to a declaration that the law should be the same for the black as for the white. Our own statute is more specific, but both were designed to release that race from any disability or restrain to which the other was not subjected, and make their rights and responsibilities the same. One cannot, on account of color, be excepted from jury lists (*Ex parte Virginia, supra; Strauder* v. *West Virginia, supra*), and a statute which effects that is said to put "a brand upon him, and create a discrimination against him, which is forbidden." *Strauder's Case* (*supra*), *Railroad Co.* v. *Brown* (17 Wall. [U. S.] 445) was under a law of Congress giving privileges to a railroad company, accompanied with a provision "that no person shall be excluded from the cars on account of color." The company provided two cars, but set apart one for colored persons and the other for white, and such was the arrangement that on the down and up trips their places were reversed. The cars, therefore, were alike comfortable, and in turn appropriated to the two races, separately. A colored woman being excluded from one, and sent against her will to that assigned to her race, brought suit against the company, and succeeded, the court holding that the regulation separating the colored from the white passengers was illegal, and in answer to the defendant's claim that so far from excluding this class of persons from the cars they had provided accommodations for them, said "this is an ingenious attempt to evade a compliance with the obvious meaning of the requirement," which was not merely that colored people should be allowed to ride, but that in the use of the cars there should be no discrimination because of their color.

The principle of these decisions applies here. In one case, as in the other, is discrimination on account of color. The fatal defect is in the fact of discrimi-

nation and its cause To this effect is *Central R R of N J. v. Green* (86 Penn. St. 421; 27 Am. Rep 718), and more in point, *Board of Education* v. *Tinnon* (26 Kans 1), and *People ex rel Longress* v. *Board of Education* (101 Ill. 308; 40 Am Rep. 196)

The respondent has referred to a number of cases as holding a different doctrine: *People ex rel. Dietz* v *Easton* (13 Abb. Pr. [N S.] 159); *Dallas* v. *Fosdick* (40 How Pr 249); and some from other States. They have been examined, but found insufficient, upon the facts and statutes before us, to sustain the doctrine contended for by him. *People ex rel. Dietz* v. *Easton* and *Dallas* v *Fosdick* (*supra*) were both decided before the passage of the Civil Rights Act of 1873 (*supra*) The first was at Special Term and the latter at General Term by a divided court, one judge dissenting and another taking no part. The last decision being put upon a law relating to the city of Buffalo, which imperatively required separate schools for black children to be provided and their attendance limited thereto By that law (1853, chap. 230), the public schools of Buffalo were free only to "white children" (Title 6, § 5) The other (*People ex rel. Dietz* v. *Easton*) arose in the city of Albany. The whole city was one school district There was no school, therefore, with which any child had any special connection, and the board of education exercised over the relator in that case the same jurisdiction which determined the location of other scholars, and upon this ground the claim of the relator to be sent to the school nearest his residence was denied The question of color came incidentally before the court, and the effect of the fourteenth amendment was discussed, but not necessarily, nor does the decision turn upon it *Roberts* v *City of Boston* (5 Cush. 198) was decided in 1849, before the adoption of the fourteenth amendment, and does uphold to the furthest extent the right of a municipality to compel the education of colored children in schools apart from white children; but those schools have been discontinued under the operation of a law passed by that Commonwealth in 1855, which provided that in determining the qualifications of scholars to be admitted into any public school or any district school, "no distinction shall be made on account of the race, color, or religious opinions of the applicant or scholar."

If the respondent is right, then with equal plausibility it might be said that the city of Brooklyn could provide parks, streets, and sidewalks exclusively for persons of color, or, if elected, as they may be, to sit in its council chamber, prescribe absolutely what seats they shall occupy, or its courts assign to the jurymen of that race, boxes separate from others, denying them access to other streets, parks, sidewalks, and seats It would not answer in either case to say all these things are equal or even better in degree than those This would still be discrimination against the race, and so with the school, the main business of which is to prepare a youth for his future duties as a citizen in his various relations toward the State, the performance of obligations due to other citizens, and possibly even forbearance and conduct toward opposing races

The State gathers to its treasury the money of the taxpayer without inquiry as to his color—with like indifference accepts his vote, and subjects him to its laws and in return, among other privileges, provides an opportunity for education This being conceded, the manner of adjusting it is evidently the one prescribed by the State itself—schools free to all children, therefore to children of both races, upon conditions applicable to each alike No other can be relied upon The application of the rule contended for by the respondent would vary according to the conceit or bias of the school board, and the estimate they might put upon the relative positions of the two races; the needs of the colored pupil and required capacity of her teacher There is also the general law of the State declaring all common schools (and that in question is one of them) free to all persons over five and under twenty-one years of age, residing in the district (Act of 1851, chap 151, § 1; act of 1864, chap 555, title 7, art 5, § 39), and these schools were necessarily open to colored as well as white children. It is contended, however, by the respondent that the statute last cited (Title 10, §§ 1, 2), and the statute of 1850 (Chap. 143, § 4) gave to the board of education power to establish separate schools for colored children Conceding that to be so, it does not follow that they should or can be excluded from others Different language would naturally be employed to express such a purpose.

The first act, that of 1864 (*supra*, art 5, § 39), provides that "Common schools in the several school districts of this State shall be free to all persons over five and under twenty-one years of age, residing in the district," but section 40 declares that if a school district include a portion of an Indian reservation whereon a school for Indian children has been established by the superintendent of public

instruction, and is taught, the school of the district is not free to Indian children resident in the district, or on the reservation, nor shall they be admitted to such school except by the permission of the superintendent." It is apparent, first, that the education of all children within the ages named is intended to be provided for; second, that separate schools may be established for Indians and separate schools for colored children; and, third, I think it clear from the different phraseology used by the legislature in reference to theses races that a colored child might attend either a colored school or white school at his election. In regard to him there are no words of prohibition as in the case of the Indian, and, except for those words of prohibition, it was the evident understanding of the legislature, an Indian could attend either. The white school remained free to the colored pupil, but was closed against the Indian, except by permission of the superintendent of public instruction.

And so with the legislation under review by the Supreme Court in *Dallas* v. *Fosdick* (*supra*). The language in terms excludes colored children. Such language is not to be found within the limits of the statutes relating to Brooklyn. But we have now the act of 1873 (Chap. 186 already cited), which permits no doubt as to the present absolute right of each child not disqualified by some mental or moral defect, to attend the common school established in the district where he resides. Previous limitation on account of color, if any existed, necessarily ceased with the enactment of this act (1873, *supra*). Nor did the subsequent statute of June, 1873 (Chap. 863), amending the charter of Brooklyn, or the act (Chap. 420) of the same year, relating to the board of education, have the effect to repeal as to that city the Civil Rights Act already cited (Chap 186, Laws of 1873). An express repeal is not pretended, and there is nothing in the act from which a repeal can be implied. The two acts have different objects; the first (that of April 1873, *supra*) is defined by its title and was aimed at the protection of the citizen, while the other (that of June, chaps, 420, 803) as part of the general charter of the city, created a department of public instruction, to be under the control of a board of education, to which it declares "all the provisions of law relating to the present board of education shall apply," and if I am right in the foregoing discussion, then among others, the provisions of the act just before passed (Chap. 186).

It is not long since the inferiority of the colored man was received by a great majority of the white race as a general edict of nature, and upon it as a fundamental principle laws were passed, and regulations, usage and custom founded In deference to it, and the general sentiment of antipathy to the negro race, "colored schools" were authorized by the statutes referred to, and then certain schools before free to all were open only to the white citizen. By the act of 1873 (Chap. 186) the "word or term" which was thought to permit this discrimination was annulled, and thenceforward it became impossible. Neither the wisdom nor justice of this course of legislation is now in question, nor are we to inquire whether co-education of the races is desirable, or more or less likely than the separate system to promote the welfare of either, but it cannot, I think, be doubted that the latter, when enforced by law against the wish of the colored race, is directly calculated to keep alive the prejudice against color from which sprung many of the evils for the suppression of which the fourteenth amendment and our own civil rights statute were enacted.

We find, however, in the opinion of the learned judge who disposed of this case at Special Term, a suggestion that the discrimination was in favor of the colored child. That question may well be left to the child itself. The statute should not be construed as prohibiting such intercourse or association. For any regulation by which the black is kept in a state of separation is in fact one of exclusion and reflects the sentiment by which the white assumed to be the superior race, a discrimination against which the law is now directly aimed. In regard to schools the question can arise but seldom. In most of the counties and cities of this State no provision is made for the separate education of colored children. In a few counties, and in the city of New York as well as Brooklyn, such accommodations are provided. But when they are not confined to those schools and excluded from others, the attendance at them has steadily decreased, as we learn from the reports of the board of education of the city of New York, made under the direction of the legislature (Laws of 1851, chap. 386, § 3, subd. 10), and that this diminished attendance is due to the fact that all its public schools are now open to pupils without distinction of race or color, and "that many parents and guardians of colored children have, therefore, availed themselves of the privilege in the matter of selection of schools." (See reports of 1881 and 1882.)

From the report of 1880, made by the board of education of the city of Buffalo, we find the same condition exists in that city. Colored children now attend the other schools with such unanimity that the superintendent recommends, that by legislative interference, the compulsory part of the law be repealed and the city no longer required to provide separate schools for children who cannot be compelled to resort to them.

In the case before us the city is under no obligation to maintain a separate school for children of color. But the objection is not to its existence; the objection is that the relator is compelled to attend it because of her color, and so is excluded from schools to which children of another race are permitted to resort. The exaction is, therefore, unequal, and is, I think, in violation of the law which gives to all children, within the several districts, an equal right, in like cases and under like circumstances, to go to those schools for education. I am, therefore, led to the conclusion that the relator, on account of her color, has been prevented, by a public officer and by ordinance or regulation, from enjoying an accommodation or privilege to which, as a citizen of this State, she is entitled. In such a case the court has no discretion to exercise, for the writ of *mandamus* affords the only adequate remedy, and it should have been granted. (*People, ex rel. Gas-light Co* v. *Common Council of Syracuse*, 78 N. Y. 56.)

The orders of the Special and General Terms should, therefore, be reversed, and a writ issued, pursuant to the prayer of the petitioner

RAPALLO, MILLER, and EARL, JJ., concur with RUGER, Ch. J.; FINCH, J., concurs with DANFORTH, J.; ANDREWS, J., absent.

Orders affirmed.

Mr. BLOCH. In connection with something I have to say later on, I want to read you this:

In the nature of things there must be many social distinctions and privileges remaining unregulated by law and left within the control of the individual citizens as being beyond the reach of the legislative functions of government to organize or control. The attempt to enforce social intimacy and intercourse between the races by legal enactments would probably tend only to embitter the prejudices, if any there are, which exist between them, and produce an evil instead of a good result.

He was paraphrasing there from the case of *Roberts* v. *The City of Boston*, that Massachusetts case (5 Cushing 198).

Then he says, on page 450:

A natural distinction exists between these races which was not created, neither can it be abrogated by law, and legislation which recognizes this distinction and provides for the peculiar wants or conditions of the particular race can in no just sense be called a discrimination against such race or an abridgment of its civil rights. The implication that the Congress of 1864 and the State legislature of the same year, sitting during the very throes of our Civil War, who were respectively the authors of legislation providing for the separate education of the two races, were thereby guilty of unfriendly discrimination against the colored race, will be received with surprise by most people and with conviction by none. Recent movements on the part of the colored people of the South through their most intelligent leaders to secure Federal sanction to the separation of these two races, so far the same compatible with their joint occupation of the same geographical territory, affords strong evidence of the wishes and the opinions of that people as to the methods which in their judgment will conduce most beneficially to their welfare and improvement.

The CHAIRMAN. May I say in comment that I doubt very much whether a single member of our distinguished Court of Appeals of the State of New York would approve that language today, and they are likely to say, as Emerson once said, that "consistency is the hobgoblin of small minds." I would like to quote in reference to that, namely, the need to change one's views, the very famous statement attributed to the great Confederate General Lee, who said to General Beauregard: "True patriotism requires men to act exactly contrary at one period to that which has been done at another period."

Mr. BLOCH. I am glad the chairman recognizes General Lee as an authority.

Mr. HOLTZMAN. So long as you recognize New York State as an authority for your position, we will recognize General Lee.

Mr. BLOCH. Another thing, Mr. Chairman, before I forget it. This decision was rendered in 1883. The chairman says there is not a single member of the present Court of Appeals of New York who would agree to it, I believe. It was agreed to as late as 1900.

Mr. HOLTZMAN. Mr. Bloch, I think Mr. Forrester minimized your talent as a lawyer when he introduced you. I know as a good lawyer you know that all of this makes absolutely no difference to the question we are considering, because whether it was 1883 or 1894, it has no import any more. The issue is whether or not the decision of the Supreme Court of the United States must be complied with. That is the issue.

Mr. BLOCH. If I am as good a lawyer as you think I am and Mr. Forrester says I am, in a few minutes maybe I can show you, Mr. Holtzman, why I think that this decision and the decision of your court in 1900, following it, are material to the issues that you raise.

Another thing that occurs to me is this. If, as the chairman suggests, that no single member of the Court of Appeals of New York would agree to that today, then where does that lead us?

Mr. HOLTZMAN. I do not know. I cannot tell what a member of the Court of Appeals of the State of New York would do today.

However, I am inclined to gree with my chairman that you could not find in the State of New York today one member of the judiciary who would buy that opinion.

Mr. BLOCH. It was mighty good language back in 1883. It was mighty good thought in 1900.

Mr. HOLTZMAN. So was the horse and wagon good in 1883.

Mr. BLOCH. What we hope to do, Mr. Holtzman, before we get through with this difficulty that we are in, we will say—not a fight between Georgia and the Supreme Court——

Mr. HOLTZMAN. I certainly hope not.

Mr. BLOCH. We hope to be able to convince the Supreme Court of the United States, as it may change from day to day, like your Court of Appeals in New York is changed from day to day in personnel, that the philosophy of your great New York State, Judge Ruger, and of the chief judge of your court of appeals in 1900, the distinguished Judge Alton Parker, who was a candidate for the Presidency of the United States on the Democratic ticket, in 1908, that the philosophy of those courts of appeals as expressed in these opinions is to be preferred in preference to the philosophy of the present ones.

Mr. HOLTZMAN. You have an unqualified right to convince the Supreme Court of anything, and yet you have a definite obligation, until you convince them, to comply with the law.

Mr. BLOCH. No; we have not.

Let me show you why we have not.

Mr. KEATING. That would be a pretty serious statement if it came from an official. He is not an official.

The CHAIRMAN. Let him give his answer.

Mr. BLOCH. Over a period of decades the old shibboleth was confirmed and ratified in the three cases just cited by these Justices of the Supreme Court: Holmes, Van DeVanter, Brandeis, Butler, San-

ford, and Stone. In the opinion, the Court also cited approvingly *Cumming* v. *Richmond County Board of Education* for the proposition—the opinion in that case was written by the grandfather of the present Justice Harlan, and he said, "The right and power of the State to regulate the method of providing for the education of its youth at public expense is clear."

In the light of that judicial history, which, under every concept of constitutional government, caused that old shibboleth to become a part of the law of the land, why was it not accepted as the law of the land? Why did those who opposed the "separate but equal" doctrine seek to have the Supreme Court of today reverse the Supreme Court of many yesterdays? So far as the applicable provisions thereof are concerned (14th amendment) the Constitution of the United States of 1954 was in exactly the same language as that of 1896. Why is it that the decisions of May 17, 1954 "must be accepted as the law of the land, binding as such on all of us," when *Plessy* v. *Ferguson*, and the decisions following it, were not so accepted?

The CHAIRMAN. Let me interpolate a bit, if I may, Mr. Bloch. There is such a thing as the process of evolution. There is such a thing as orderly processes of changing conceptions, which the Supreme Court itself must recognize.

I was one of those recalcitrant members of the Judiciary Committee—and I use the word "recalcitrant" because that was the appellation applied to me by President Roosevelt—who opposed the Court-packing plan of President Roosevelt. He never forgave me for it. I, indeed, suffered because thereof, because I felt that kind of pressure should not be used upon the Supreme Court to cause the change of its conceptions.

You may remember that President Roosevelt was very much disturbed that portions of his New Deal legislation had been declared unconstitutional by the then Supreme Court, notably, NRA, and he wanted to pack the Court so that he could make appointments that would assure the decisions which would declare constitutional the rest of his so-called New Deal.

I am opposed to any kind of undue pressure being brought upon the Supreme Court directly or indirectly to change their opinions or their decisions.

But here in the case of the desegregation, there was no pressure. They were given full scope to exercise their judgment and their wisdom and erudition, and they came up with this new conception which destroyed that which was developed by *Plessy* v. *Ferguson*. That is the law of the land. That is part of our democratic process. We have to accept it.

I think, as the distinguished gentleman from New York, Mr. Holtzman, said, if you want to change that conception then take a case up to the Supreme Court and try to work your will on the now members as they exist in the Supreme Court. Perhaps they will change their mind now. I doubt it very much. But that is the only democratic, legal method, that I know of. I cannot conceive how your sovereign State of Georgia can use the processes that it is now attempting to circumvent and prevent the carrying out of the Supreme Court decision on desegregation. That is my philosophy in the case.

I remember another instance where Teddy Roosevelt sought to pack the Supreme Court. That is probably a bad term to use in that con-

nection, but he appointed Oliver Wendell Holmes, with the deliberate idea that he would give a decision in Roosevelt's favor in the Northern Securities case.

Mr. BLOCH. He fooled him.

The CHAIRMAN. But he fooled him, as it were, and decided contrary to the wishes of Roosevelt; and Roosevelt, I remember, in that case, was so irked that he said of Judge Holmes, "I could make a man with a better backbone out of a banana." You may remember he said that.

Mr. BLOCH. I remember.

The CHAIRMAN. Those were instances of court packing, which we do not like and rebel against. But here you had no such situation and by the process of evolution and changing conceptions they came to this opinion, unfortunately with which you disagree.

Mr. HOLTZMAN. I think the real issue here, made very simple, is your major premise of your argument.

If your major premise is that the decisions of the Supreme Court are the law of the land when we want them to be or when it pleases us, then we can never meet on a common ground. The major premise is the problem here and that is where we disagree apparently.

Apparently, Mr. Bloch, you do not feel that the decisions and interpretations of the Supreme Court are always the law of the land. Is that correct, sir?

Mr. BLOCH. That is correct, sir, because they are so liable to be taken back.

As the chairman pointed out to me, in the insurance company case, the Supreme Court changed its mind. As the great Justice Roberts pointed out, the Supreme Court changed its mind almost overnight. If the Supreme Court does change its mind how are you ever going to get a case before that Court seeking to make it change its mind if you blindly obey what they have said?

Mr. HOLTZMAN. But you have to get the Supreme Court to change its mind. Then we will abide by it.

The CHAIRMAN. Mr. Bloch, there are seven important bills on the calendar on the floor of the House having reference to this very committee. We have to adjourn now and return at 2 o'clock.

I have enjoyed very much this colloquy and I would like to have more of it at 2 o'clock.

So will you return at 2 o'clock?

Mr. BLOCH. I certainly will. I am enjoying it, too.

(Whereupon, at 12:30 p. m., a recess was taken until 2 p. m. this same day.)

AFTER RECESS

The CHAIRMAN. The committee will now resume, and Mr. Bloch, will you continue with your statement?

STATEMENT OF CHARLES J. BLOCH, ATTORNEY, MACON, GA.—Resumed

Mr. BLOCH. Mr. Chairman, if anybody is following me, I will start again at the top of page 3 where we left off. I want to tell you a little brief story about a lawyer down in Georgia—a very distinguished lawyer of a couple of generations ago—arguing a case before the Supreme

Court of Georgia, and he was asked a question. The judge who asked the question apologized to him for asking it, and he replied, "Don't mind asking me questions. I relish them. It is the clash of mind on mind which causes the spark of truth to scintillate," and he sat down and was dead. He died arguing the case before the Supreme Court of Georgia.

I relish questions. I do have a little difficulty in hearing them, but I hope they do not kill me.

In the light of that judicial history, which under every concept of constitutional government, caused that "old shibboleth" "separate but equal" to become part of the law of the land, why was it not accepted as the law of the land? Why did those who opposed the separate but equal doctrine seek to have the Supreme Court of today reverse the Supreme Court of many yesterdays? So far as the applicable provisions thereof are concerned (14th amendment) the Constitution of the United States of 1954 was in exactly the same language as that of 1896. Why is it that the decisions of May 17, 1954, "must be accepted as the law of the land, binding as such on all of us" when *Plessy* v. *Ferguson*, and the decision following it, were not so accepted?

In order for *Plessy* v. *Ferguson* ever to have been taken back by the Supreme Court of the United States as it respects transportation facilities, somebody, somewhere, whether in Montgomery, Ala., Richmond, Va., or wherever it was, had to break the law of the land. If *Plessy* v. *Ferguson* was the law of the land, somebody broke it somewhere when they got on a bus in contravention of the law of the land.

I respectfully call attention to another recent bit of Federal judicial history.

In 1935 in the case of *Grovey* v. *Townsend*, (295 U. S. 45), the Supreme Court of the United States held that the 14th amendment was not violated by customs and laws of the State of Texas as providing for so-called white primaries. The opinion in that case was written by Justice Roberts. It was concurred in by Chief Justice Hughes, and Justices Van Devanter, McReynolds, Brandeis, Sutherland, Butler, Stone, and Cardozo, a unanimous decision.

In 1944, just 9 years later, without a syllable of the 14th amendment having been altered, without a syllable of the statutes of Texas having been changed, the Supreme Court of the United States in *Smith* v. *Allwright*, (321 U. S. 649), took back its ruling in *Grovey* v. *Townsend*, and held that the 14th amendment was violated by those Texas statutes.

The latter decision was written by Justice Reed, and concurred in by Justices Black, Frankfurter, Douglas, Murphy, Jackson, Rutledge, and Chief Justice Stone, Justice Roberts dissenting.

I am aware of the fact that the asserted reason for reexamining *Grovey* v. *Townsend* was the decision of the Supreme Court of the United States in *United States* v. *Classic* (313 U. S. 299), a decision of the minority of the Court, only four Justices concurring therein. But, regardless of the reason for the reversal of *Grovey* v. *Townsend*, it was reversed. Those who did not approve the decision in *Grovey* v. *Townsend* did not accept it as the law of the land but attacked it so vigorously that it is no longer the law of the land.

The chairman also said: "We in Congress must provide the leadership in this great change"; and the Attorney General, on the same day,

said: "The need for more knowledge and greater understanding of these complex problems is manifest."

In the light of "this great change" arising without change in the written Constitution, in the light of both of these statements, is it amiss that we of the South, we of Georgia ask you, with all respect, regardless of political considerations, to consider the viewpoint of the South—of that section of our Nation extending from Virginia to Texas—of the people living in that section.

We are not race-baiters. We are not Negro haters. On the contrary, we know that the good Negroes of the South are being used as pawns in a political game. We do believe that the Constitution of the United States was a compact between the States, to be obeyed, if this Government is to survive, but not to be amended except as provided by its specific language.

For you to understand our position, and thus intelligently to assume the leadership which is yours, I ask you to go back in your mind's eye almost 100 years, and consider the state of the Nation as it then was.

On the eve of the War Between the States, a Senator from my native State of Louisiana delivered his farewell address to the Senate of the United States.

What had preceded that speech during the years which had preceded it?

The first settlement of English speaking people on these shores was at Jamestown, Va., in 1607—colonists proceeded to settle from Massachusetts on the north through Georgia on the south. Strange as it may seem to us today, slavery was prevalent, human slavery. People, human beings, captured on African shores were brought by slave traders to these shores. Those slave traders were for the most part not southerners. Most of these people were sold into the South on account of its climate and agriculture. Years passed—the numbers of these people increased. The War of the Revolution ensued. The 13 American Colonies became 13 American States when they combined to form the United States of America.

Now, Mr. Chairman, four times in that document the institution of slavery was recognized as legal. The word "slave" or "slavery" I do not believe is in the Constitution of the United States. But four separate and distinct times the institution of slavery was recognized as legal. Especially do I point out to you that provision of the Constitution, article I, section 9, providing that the migration or importation of such persons as any of the States now existing shall think propert to admit shall not be prohibited by the Congress prior to the year 1808. To be sure that such remained the law, the Constitution provided in article V that no amendment should be made prior to 1808 which should in any manner affect the provision of article I, section 9, to which I have just alluded.

By an act of Congress of April 20, 1818 (3 Stat. 450), Congress enacted a statute prohibiting the importation of slaves.

As abhorrent as the idea is to us of today, in 1850 slavery was recognized by the Supreme Court of the United States as a legal institution. By then those in other sections of the country had been forbidden by law to engage in the slave trade, and so the abolitionists began their clamor. The South then was a prosperous, growing section. With the clamor increasing and the agitation in Congress, and the Dred Scott decision, war between the States seemed imminent.

So, because the Senator from Louisiana, and others of the South, thought the compact known as the Constitution of the United States was being violated, he left the Senate, saying:

> The fortunes of war may be adverse to our arms; you may carry desolation into our peaceful land—you may do all this and more too, if more there be—but you can never subjugate us—you can never convert the free sons of the soil into vassals, paying tribute to your power—never, never

I have omitted part of that statement, lest I be misunderstood.

Mr. KEATING. The committee is familiar with the part that you omitted so it is not necessary.

Mr. BLOCH. I imagine you are. I imagine you heard that before. But I don't believe that so I left it out.

What a prophet Senator Judah P. Benjamin was.

The CHAIRMAN. I want to say that Judah P. Benjamin was a great son of the South, and was a great Senator, and I want to commend you, if you have not read it, the novel based on his life, called Beloved.

Mr. BLOCH. Yes; I have read it.

The CHAIRMAN. It is very, very interesting. It gives his life history in a very romantic setting. I enjoyed it very much.

Mr BLOCH. Yes, sir. It is a delightful book. If you never read Mead's Life With Judah P. Benjamin——

The CHAIRMAN. Yes; I have read that. I have read Butler's Life of Benjamin. Butler was a member of the Supreme Court also, as you know. Pardon the interruption.

Mr. BLOCH. What a prophet Senator Judah P. Benjamin was. All of the desolation and destruction he imagined was wreaked on the South. The State of Georgia especially felt the ravages of war in General Sherman's march to the sea. In 1865, the war ended with the surrender at Appomattox. President Lincoln was assassinated. During the Reconstruction period, the 13th, 14th, and 15th amendments to the Constitution were adopted The 14th was proposed to legislatures of the several States by the 39th Congress on June 16, 1866. It was declared ratified July 21, 1868, by the legislatures of 30 of the 36 States.

An interesting legal discussion could be had as to whether it ever was legally adopted. Suffice it to mention now that of the 30 States supposed to have ratified the amendment, New Jersey and Ohio subsequently passed resolutions withdrawing their consent to it.

Mr. KEATING. I do not think our colleagues had anything to do with that, though.

Mr BLOCH. No, sir. Their fathers or grandfathers might have, but they did not I just hope your colleagues believe now like their ancestors did back there.

Mr KEATING. I do not believe they do.

Mr. BLOCH. I do not either.

Mr. KEATING. It remains to be seen.

Mr. BLOCH. I suspect they do not.

Kentucky, Delaware, and Maryland rejected it, and it was never ratified by either of those States.

It was of this period that Justice Robert H. Jackson of New York saw in *Collins* v. *Hardyman* (341 U. S. 651)—I believe the late revered Justice was from Jamestown, N. Y.—an action to recover damages under what is now title 42, United States Code, section 1985 (3):

> This statutory provision has long been dormant. It was introduced into the Federal statutes by the act of April 20, 1871, entitled, "An act to enforce the

provisions of the 14th amendment to the Constitution of the United States, and for other purposes." The act was among the last of the reconstruction legislation to be based on the conquered province theory which prevailed in Congress for a period following the Civil War * * *. The act, popularly known as the Ku Klux Act, was passed by a partisan vote in a highly inflamed atmosphere. It was preceded by spirited debate which pointed out its grave character and susceptibility to abuse, and its defects were soon realized when its execution brought about a severe reaction.

Then the Justice said:

The background of this act, the nature of the debates which preceded its passage, and the reaction it produced are set forth in Bowers' The Tragic Era (pp. 340-348).

It is this Ku Klux Act which is seemingly sought to be revivified in 201 of H. R. 2145 and to some extent in part IV of H. R. 1151.

Then Justice Jackson proceeds:

The provision establishing criminal conspiracies in language indistinguishable from that used to describe civil conspiracies came to judgment in *United States* v. *Harris* (106 U. S. 629). It was held unconstitutional. This decision was in harmony with that of other important decisions during that period by a Court, every member of which had been appointed by President Lincoln, Grant, Hayes, Garfield, or Arthur—all indoctrinated in the cause which produced the 14th amendment, but convinced that it was not to be used to centralize power so as to upset the Federal system. While we have not been in agreement as to the interpretation and application of some of the post-Civil War legislation, the Court recently unanimously declared through the Chief Justice (Mr Vinson): "Since the decision of this Court in the civil-rights cases (109 U. S. 3 (1883)) the principle has become fairly embedded in our constitutional law that the action inhibited by the 1st section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful.

In unmistakable language Justice Jackson of the State of New York wrote on June 4, 1951, that the 14th amendment protects the individual against State action, not against wrongs done by individuals.

At the time to which I have alluded, the Reconstruction Era, the South was prostrate but, prostrated, was used as a whipping boy by radicals for self-aggrandizement. Prostrated it was, but subjugated, it was not. There was no Marshall plan down there. We were left to pull ourselves up almost literally by our bootstraps, and that we did. As we climbed back, *Plessy* v. *Ferguson* was decided in 1896. It was gradually and repeatedly reaffirmed. *Gong Lum* v. *Rice* was decided in 1927 by a unanimous Court with an ex-President of the United States writing the opinion as Chief Justice, and saying in plain English, "The right and power of the State to regulate the method of providing for the education of its youth at public expense is clear."

I interpolate, Mr. Chairman, it so happens that in 1927 about the time that decision came out, I was a member of the Georgia Legislature, the house of representatives. My dear friend, the present senior Senator from Georgia, Dick Russell, was the speaker of the house. With that reaffirmance of *Plessy* v. *Ferguson*, and its application to the public-school system, as you gentlemen doubtless recall, *Gong Lum* v. *Rice* dealt with the public-school system in the State of Mississippi—we thought, all southerners of that day thought, that that decision of *Gong Lum* v. *Rice* applied *Plessy* v. *Ferguson* to the school situation. In that year we appropriated more money for the public-school system of Georgia than ever had been appropriated before. We were called a spendthrift legislature, I remember. We ap-

propriated for the support of the whole government of Georgia $15 million.

Today, 30 years later, I think our budget runs about $395 million. More money is spent today in Georgia on higher education; more money is appropriated today to the University System of Georgia, of whose board of regents I am a member, more money is appropriated today for higher education in Georgia than was appropriated to operate the whole State of Georgia 30 years ago. Six times as much money is appropriated today in Georgia for the operation of the public-school system alone as was spent 30 years ago for the operation of the whole State.

We did that, thinking that these principles of constitutional law, enunciated by the Supreme Court, were in effect a part of the Constitution. I recall your attention to the first for that purpose.

Secondly, I just want to reiterate what the Governor of Mississippi said yesterday with respect to the State of Mississippi. I say that with respect to Georgia: That it illustrates the progress that has been made not only in Mississippi and Georgia, but throughout the South in the last 30 years.

In *Gong Lum* v. *Rice* the Chief Justice referred to the fact that the establishment of separate schools for white and colored children had been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored race had been longest and most earnestly enforced, citing *Roberts* v. *Boston*, and then he cited another case which had come out in the meantime, or which had been decided in the meantime, which had not been decided back at the time of *Plessy* v. *Ferguson*, and that is also a case decided by the court of appeals in New York.

I ask leave to place in the record the whole decision of the Court of Appeals of New York decided February 6, 1900, in the case of *People* v. *The School Board of the Borough of Queens* (161 N. Y. 598, 56, N. E. Rep. 81).

The CHAIRMAN. That may be done.

(The information follows:)

THE PEOPLE OF THE STATE OF NEW YORK EX REL. ELIZABETH CISCO, APPELLANT, *v.* THE SCHOOL BOARD OF THE BOROUGH OF QUEENS, NEW YORK CITY, RESPONDENT

1. SCHOOLS—SEPARATE SCHOOLS FOR COLORED CHILDREN. The Consolidated School Law (L. 1894, ch. 556, tit. 15, § 28) authorizes the school board of the borough of Queens to maintain separate schools for the education of its colored children, and to exclude them from its other schools, provided, always, that the schools for colored children make the same provisions for their education as are made for others, so far as the nature, extent and character of the education and facilities for obtaining it are concerned.

2. CONSTITUTIONAL LAW—PENAL CODE, § 383. Neither the provisions of article 9 of the Constitution of 1894, relating to a system of free common schools, nor those of section 383 of the Penal Code, making it a misdemeanor for teachers or officers of the common schools and public institutions of learning to exclude any citizen from the equal enjoyment of any accommodation or privilege, qualify or limit the right to establish separate schools of such a character, the school board having the right to determine where different classes of pupils shall be educated, provided equal facilities and accommodations are afforded all.

People ex rel. Cisco v. *School Board*, 44 App. Div. 469, affirmed.

(Argued January 9, 1900; decided February 6, 1900.)

APPEAL from an order of the Appellate Division of the Supreme Court in the second judicial department, entered November 28, 1899, affirming an order of the Special Term denying an application for a peremptory writ of mandamus to

compel the defendant to admit the children of the relator to one of the common schools of the borough of Queens, without distinction of color.

The facts, so far as material, are stated in the opinion.

George Wallace for appellant. The respondent has no right to exclude relator's children from the common schools on account of their color. (L. 1897, ch. 378, § 1056, 1094; L. 1864, ch. 248; *People* v. *King*, 110 N. Y. 418; Penal Code, § 383; L. 1894, ch. 671; Const. N. Y. art. 9, § 1.)

John Whalen, Corporation Counsel (*William J. Carr* of counsel), for respondent. The school board had the power to organize a separate school for the instruction of children of African descent and to assign thereto the children of the relator. (L. 1897, ch. 378, § 1094; L. 1864, ch. 555, tit. 10, § 1; *Peoples ex rel.* v. *Gallagher*, 93 N. Y. 438; *Ward* v. *Flood*, 48 Cal. 36; *Cory* v. *Carter*, 48 Ind. 327; *Roberts* v. *Boston*, 59 Mass. 198; *Lehen* v. *Brummell*, 103 Mo. 546; *McMillan* v. *School Committee*, 107 N. C. 609; *L. R. R. Co.* v. *Mississippi*, 133 U. S. 587; *Plessy* v. *Ferguson*, 163 U. S. 537; *State* v. *McCann*, 21 Ohio St. 211.)

Opinion of the Court, per MARTIN, J.

MARTIN, J. The single question in this case is whether the school board of the borough of Queens is authorized to maintain separate schools for the education of the colored children within the borough, and to exclude them from the other schools therein, it having made the same provisions for their education as are made for others so far as the nature, extent, and character of the education and facilities for obtaining it are concerned.

In *People ex rel. King* v. *Gallagher* (93 N. Y. 438) the statute of 1864, which was the Common School Act, chapter 143, Laws of 1850, and chapter 863, Laws of 1873, which related to the public schools of the city of Brooklyn, were under consideration. They authorized the establishment of separate schools for the education of the colored race in cities and villages of the state, and in the city of Brooklyn. In that case it was held that they were valid, that they did not deprive children of African descent from the full and equal enjoyment of any accommodation, advantage, facility or privilege accorded to them by law, and that they in no way discriminated against colored children. It was also held that the fourteenth amendment of the Federal Constitution only required that such children should have the same privilege of obtaining an education with equal facilities as are enjoyed by others without regard to race or color, and that the requirement that they should be educated in separate schools did not impair or interfere with their rights under the Constitution or with any other legal rights of colored pupils.

The Consolidated School Law (Laws of 1894, ch. 556, tit. 15, § 28) contains the same provisions relating to this subject as were contained in the statute of 1864. Thus the same statutory authority for the maintenance of such separate schools now exists as existed when the *King* case was decided. Therefore, as this question has already been decided, it is not an open one in this court.

But it is insisted by the appellant that as the Penal Code (Sec. 383) makes it a misdemeanor for teachers or officers of common schools and public institutions of learning to exclude any citizen from the equal enjoyment of any accommodation or privilege, it in effect confers upon colored children the right to attend any school they or their parents may choose, and that the school board had no authority to establish separate schools and deny them the right to attend elsewhere. The first answer to this insistence is that the Penal Code was in existence at the time of the decision of the *King* case, and must be regarded as having been considered in that case. Moreover, independently of that decision, we do not see how that statute changes the effect of the conclusion reached in the case referred to, provided the facilities and accommodations which were furnished in the separate schools were equal to those furnished in the other schools of the borough. It is equal school facilities and accommodations that are required to be furnished, and not equal social opportunities.

The case of *People* v. *King* (110 N. Y. 418) is relied upon as modifying or overruling *People ex rel. King* v. *Gallagher*. We do not think such is its effect. In the former case a colored person was excluded from a place of public amusement controlled by the defendant, and it was there held that the latter was guilty of a misdemeanor. In that case there was a total denial of the complainant's right to attend or to participate in the enjoyment of the entertainment. There no other accommodation or facility was furnished by the defendant. Not so here. In this case the colored children were given the same facilities and accommoda-

tions as others. We are of the opinion that the case of *People* v. *King* neither modifies nor affects the principle of the decision in *People ex rel. King* v. *Gallagher*, so far as it applies to the question under consideration.

Again it is said that the present Constitution requires the legislature to provide for the maintenance and support of a system of free common schools wherein all the children of this state may be educated, and, therefore, the school board was required to admit to any school under its control all the children who desired to attend that particular school. Such a construction of the Constitution would not only render the school system utterly impracticable, but no such purpose was ever intended. There is nothing in that provision of the Constitution which justifies any such claim The most that the Constitution requires the legislature to do is to furnish a system of common schools where each and every child may be educated, not that all must be educated in any one school, but that it shall provide or furnish a school or schools where each and all may have the advantages guaranteed by that instrument If the legislature determined that it was wise for one class of pupils to be educated by themselves, there is nothing in the Constitution to deprive it of the right to so provide It was the facilities for and the advantages of an education that it was required to furnish to all the children, and not that it should provide for them any particular class of associates while such education was being obtained In this case, there is no claim that the relator's children were excluded from the common schools of the borough, but the claim is that they were excluded from one or more particular schools which they desired to attend and that they possessed the legal right to attend those schools, although they were given equal accommodations and advantages in another and separate school. We find nothing in the Constitution which deprived the school board of the proper management of the schools in its charge, or from determining where different classes of pupils should be educated, always providing, however, that the accommodations and facilities were equal for all. Nor is there anything in this provision of the Constitution which prevented the legislature from exercising its discretion as to the best method of educating the different classes of children in the state, whether it relates to separate classes as determined by nationality, color, or ability, so long as it provides for all alike in the character and extent of the education which it furnished and the facilities for its acquirement

The order should be affirmed, with costs.

PARKER, Ch. J., GRAY, O'BRIEN, BARTLETT and HAIGHT, JJ., concur; VANN, J., not voting

Order affirmed.

Mr. BLOCH. This language in that case—I am not going to read at length from it, because you gentlemen are probably more familiar with it than I am, and certainly you have a chance to read it later if you are not—this struck me about it: In the light of our views down in the South, our views about the constitutional government and the principles of stare decisis, the Court of Appeals of New York, of which the late Hon. Alton B. Parker was then chief judge, said this:

> Where a question has been decided by the court of appeals, it is no longer an open question and will not be considered on a subsequent appeal. Whether a question has been decided by the court of appeals, it must be assumed that all statutes in existence at such time affecting the question decided were considered by the court.

They refused in 1900—your court, the court of highest resort of your State—to reconsider the Gallagher case and adhered to it as late as 1900 under the principles of stare decisis.

As *Plessy* v. *Ferguson* was so confirmed, we thought that by every principle of right, every principle of law, every principle of constitutional government, it had become a part of the Constitution, just as if written into it; that it was the right and power of each State in this Union to regulate the method of providing public education.

As we climbed back, we established public school systems, and built separate schools for the white and colored children. Funds for these purposes were mostly derived from white citizens. As late as 1956,

in my county of Bibb, the total ad valorem taxes paid by white citizens is $2,702,762.24; by colored citizens, $137,000.

The white citizens pay 95.6 percent; the colored citizens 4.84 percent. Yet we pride ourselves, gentlemen—I have no figures to the income taxes and the sales taxes and what the division is because they do not keep them that way—but we pride ourselves in our county of having what I think is the best school system anywhere in the United States, started by a local act of 1872, a self-perpetuating board created thereby. If you ever want to come South to hold hearings of this sort, I hope you will come to Macon, so we can show you the sort of schools in Bibb County still, thank the Lord, under the separate but equal doctrine.

As early as the 19th century there was no complaint about slavery in the South as long as other people of other sections could engage in slave trade, in building, owning, and operating ships to transport captured human beings from the coasts of Africa to the coast of America to be sold in bondage to southern planters, so in the early 20th century, there was no complaint about civil rights, no attempt to resurrect the unconstitutional laws of the reconstruction era, as long as the South was the Nation's economic problem No. 1.

Even in the New Deal era, and its succeeding years, 1933–45, when the late Franklin Delano Roosevelt was President of the United States, there was no such agitation or effort.

But with the end of World War II, the South had emerged from its "conquered province" status. Learning of our natural resources, our climate permitting year-round work, indoors and out, our supply of ambitious intelligent people ready, able, and willing to work as their ancestors had, our freedom from alien concepts of government, industry began to move South.

Mr. KEATING. I hope you are not implying that everyone in the North furthers alien concepts of government, and is not ready, able, and willing to work. There is no implication of that kind in your statement.

Mr. BLOCH. Not at all. It happens that we have a greater percentage of native-born citizens or people who do not believe in the alien concepts of government in the South than in the North.

Mr. KEATING. Do you place those two synonymously, native-born citizens and those who do not believe in alien concepts of government?

Mr. BLOCH. I do not.

Mr. KEATING. There are so many of our naturalized citizens in this North who are the most violent opponents of alien concepts of government that I do not think that is a fair implication.

Mr. BLOCH. I did not use them synonymously. On the contrary I think the best patriot I ever saw in my life was my father, who was born in Alsace-Lorraine, and came to this country in 1881 and became a naturalized citizen. He was the best patriot I ever saw. I will bow to none on his patriotism. By no means do I use those terms interchangeably.

As manufacturing began to supplant agriculture in the South, colored people of the South began to move north in such numbers as to create the balance of power in several non-Southern States.

Then and only then did this civil-rights chaos and confusion start. Then and only then did established principles of constitutional law begin to crumble.

Are we supposed to supinely submit? I say no, that we have the right to use every constitutional, legal means to demonstrate to Congress and the courts that these decisions are constitutionally wrong.

We have just as much right to try to demonstrate to the Congress and the courts that *Brown* v. *Board of Topeka* is wrong as other people had to try to demonstrate that *Plessy* v. *Ferguson* was wrong.

Mr. KEATING. There is no question but that you are 1,000 percent correct in that statement. That expresses the idea exactly. You have every right to question any decision of the court and to take any legal means within your power, just as any citizen of this great country has, to advance that position.

Mr. BLOCH. Thank you, sir. I am glad you think as we do on that, and that is what we are trying to do. That is the object of the States Rights Council of Georgia.

The CHAIRMAN. Mr. Bloch——

Mr. BLOCH. I will skip a little.

The CHAIRMAN. You say you will skip a little. We have quite a number of witnesses here this afternoon, and I would not want them to come back next week if we can avoid it, so if you can condense it, it will be helpful.

Mr. BLOCH. I will do that. I am prepared right along in here to skip.

I know, as you as trained experienced lawyers know, that when the Constitution is ravished, the offspring is a monster.

If one group can today set aside the 10th amendment, another can tomorrow set aside the 1st, and the 5th, and all the others of the family comprising the Bill of Rights.

I have been told that I as a member of a religious faith which is in the minority should be on the side of a racial group which is numerically in the minority. I am on the side of no one except those who believe in the Constitution of the United States as it was written and as it was amended in accordance with the provisions written as a part of it. I know that no minority group, whether it be racial, religious, sectional, is safe if the Constitution of the United States and decisions of the Supreme Court of the United States can be swept aside with the stroke of a pen.

I skip over page 13 for those who may be following me.

The first plank in the four-point program advocated by the administration is the operation of the bipartisan Commission to investigate asserted violations of the law in the field of civil rights. This is provided for in H. R. 1151 and H. R. 2145.

The bipartisanship seemingly is secured by the provision that of the Commission of 6, not more than 3 members shall at any one time be of the same political party. There is no geographical qualification. All 6 could be from 1 State, provided only that the political party test be applied. That does not, in the field of civil rights, seem to be a criterion of impartiality.

H. R. 2145 does not even have that requirement.

Sections 103 and 104 of H. R. 1151 constitute this Commission as nothing more or less than a national grand jury, lacking the power of indictment, which will be supplied by local grand juries. We can foresee the flood of contempt and perjury indictments upon the authorization of just two members, subpenas may be issued directly to any person anywhere within the jurisdiction of the United States to

appear anywhere within that jurisdiction to testify upon any matters deemed material by those two members.

Who pays the expenses of such witnesses? Who pays for the time he may lose from his business or profession? Violating every concept of the grand-jury system as known in the laws of English-speaking people for centuries, this supergrand jury could sit in Washington and investigate allegations sworn or unsworn that certain citizens of the United States are being deprived of their right to vote or being subjected to unwarranted economic pressures in the State of California, Louisiana, or Florida, and require citizens of those faraway States to come to Washington to testify regarding such unsworn allegations.

And what are unwarranted economic pressures within the meaning of this bill? Who determines that? And what provision of the Constitution of the United States authorizes the United States to take any action even if a citizen of the United States is being subjected to unwarranted economic pressure by reason of his religious or national origin?

It is difficult to understand how any executive officer of this administration can sponsor such a provision. Before I come to that, Mr. Chairman, let me interpolate this. It occurred to me since I wrote this out the other night, I argued before the Supreme Court of the United States some 10 or 12 years ago the case of *Boles* v. *Willingham*. It is reported in Three Hundred and Twenty-first United States Reports. In that case, I succeeded in getting the United States district judge in Georgia to hold the rent-control provision of the Emergency Price Control Act unconstitutional. When I got up here it was reversed 8 to 1. I never have forgotten, though, a case that was used in the argument of that case. Panama Refining Co., in Two Hundred and Ninety-third United States Reports. I do not have it here. I do not have the quotation.

Mr. KEATING. Listening to your memory it sounded as though you did not need a book for your quotations.

Mr. BLOCH. Mr. Keating, to be fair with you, I checked up on it a while ago. I thought that is where it was, but I looked it up. It is Two Hundred and Ninety-third United States Reports. Language to this effect is in there, and I submit it to you gentlemen for your consideration. That the act there complained of in *Panama Refining Co.* v. *Ryan* granted to the Commission there under attack nothing more or less than a roving commission to go anywhere in the United States to inquire into anything that it might think legal or illegal, or words to that effect. Apply that to the language of this bill. It is in both bills, Mr. Keating's and Mr. Celler's.

The CHAIRMAN. Mr. Bloch, let me read you just briefly what you intend to do in Georgia with reference to a commission. I have been informed that the administration of Georgia is stockpiling new and powerful legal ammunition for its fight against racial integration in schools and on buslines. One of the measures to be offered by the Governor of the State to your State legislature—

authorizes the Georgia Commission on Education, of which the Governor is chairman, or a committee appointed by it, to hold hearings anywhere in the State, to subpena witnesses, to compel them to answer any and all questions, and to produce any books or records asked for by the commission or the committee. The superior courts are called on to bulwark this authority.

Another bill is to give the Governor sweeping power to—

take such measures and do all and every act and thing which he may deem necessary in order to preserve the peace. He may call on the National Guard, the sheriffs, the department of public safety, or any State, county, or city official to carry out his orders once he has decreed a state of emergency.

The commission on education, specifically created in 1953, would be empowered under the bill to call any person at any time at any place to testify under oath.

The measure adds:

Any witness failing or refusing without legal cause to appear and testify before this commission and, after appearing, who fails without legal cause to answer any question asked him, or any person who fails to produce any book, record, document, or other evidence, after having been duly subpenaed, shall be guilty of a misdemeanor and after conviction thereof shall be punished as provided by law

Do you see any difference between the Commission that we are to establish under a number of these bills with its powers and the commission called your commission on education, which is being given these widespread powers under this new and intended legislation in Georgia?

Mr. BLOCH. I see a very great difference, sir. In the first place, I think I ought to tell the chairman that as chairman of the Judicial Council of Georgia, I am ex officio a member of the Georgia Education Commission. I suggested the drafting of the act which created the Georgia Education Commission. As chairman of the legislative committee, composed of the attorney general and two other members, I suggested to the commission the very statute that you just read. So I am somewhat familiar with it.

The CHAIRMAN. Will you send us a copy of that bill as offered to the legislature?

Mr. BLOCH. Yes. Has it passed? When I left down there it had not passed. But I will send it to you nevertheless.

(The document follows:)

H R No. 8-7a (AM)

By Messrs Moate of Hancock and Hawkins of Screven

A RESOLUTION To amend a Resolution creating the Georgia Commission on Education and defining its duties and powers, approved December 10, 1953 (Ga. Laws 1953 Nov.-Dec. Sess., p. 64), as amended by a Resolution approved March 3, 1955 (Ga Laws 1955, p 395), so as to authorize the Commission or a Committee from its membership created by it to hold hearings and conduct investigations relative to the preparation of legislation; to authorize the Commission or its Committee from its membership to issue subpoenas requiring the appearance of witness and the production of evidence; to provide for enforcement thereof by attachment for contempt; to provide that any person violating any subpoena or refusing to testify shall be guilty of a misdemeanor; to provide for procedure and to authorize the Commission to employ investigators and other assistants, and procure other information

Whereas the Georgia Commission on Education is an agency of the State of Georgia required by law to draft suggested legislation concerning education for presentation to the General Assembly; and

Whereas the holding of hearings and the conducting of investigations would greatly enhance the effectiveness of said Commission in performing said duties: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), as follows:

SECTION 1

A Resolution creating the Georgia Commission on Education and defining its duties and powers, approved December 10, 1953 (Ga. Laws 1953, Nov.-Dec. Sess.,

p. 64), as amended by a Resolution approved March 3, 1955 (Ga. Laws 1955, p. 395), is hereby amended by adding thereto new sections to read as follows:

"Fourteen. (a) The Commission may, either by itself or through a committee from its membership appointed by the Chairman and approved by the Commission, hold hearings, conduct investigations, and take any other action necessary to collect data and obtain information necessary, helpful, or relevant to the preparation and drafting of legislation or Constitutional Amendments dealing with education in the State of Georgia, touching both the common schools and the University System of Georgia.

(b) Said hearings and investigations may be held anywhere within the State, as may be determined by the Commission or the Committee from its membership authorized by it, and said Commission or Committee from its membership, as the case may be, is hereby authorized to issue subpoenas requiring the attendance of witnesses and the production of papers, documents, records, and any other material evidence. Such subpoenas shall be issued in the name of the Commission and signed by the Chairman thereof, or by the Chairman of the Committee, from its membership as the case may be Oaths may be administered to all witnesses by the Chairman or any members of the Commission or of the Committee, from its membership as the case may be. Every witness appearing pursuant to subpoena shall be entitled to receive, upon request, the same fee as is provided by law for witnesses in the Superior Courts, and where the attendance of witnesses residing outside the county wherein the hearing is held is required, they shall be entitled to receive the sum of Seven ($7.00) Dollars out of funds available to the Commission, upon certification thereof by the Chairman.

(c) Such subpoenas may be served by any sheriff of the State or his deputies and shall be paid for such services out of funds available to the Commission upon certification thereof by the Chairman.

(d) Any witness failing or refusing, without legal cause, to appear and testify, or after appearing who fails without legal cause to answer any question asked him, or any person who fails to produce any books, records, documents, or other evidence, after having been duly subpoenaed, shall be guilty of a misdemeanor and after conviction therefor shall be punished as provided by law. In addition, the testimony of such witness, or the production of any books, records, documents, or other evidence may be compelled by the superior court of the county wherein such refusal or failure was made. Upon certification of such fact to the judge of the Superior Court by the Chairman of the Commission or Committee from its membership, as the case may be, it shall be the duty of said Judge to issue an attachment for contempt against such witness or person as in other cases, requiring the latter to show cause why he or she should not be held in civil contempt.

"Fifteen. The Commission, or the Committee from its membership created by it, shall be authorized to employ such assistants, investigators, and research assistants as it may deem necessary to carry out the provisions of this Resolution, and said Commission or its Committee from its membership may expend moneys for the procuring of information from other sources, either within or outside the State."

H. R. No. 11-7d

By Messrs. Moate of Hancock and Hawkins of Screven

A RESOLUTION Relating to the Georgia Commission on Education; and for other purposes

Whereas the Georgia Commission on Education was created in 1953 to cope with the problems relating to education which have confronted the State in recent years and which continue to be of primary importance to all the citizens of Georgia, and

Whereas the Commission has performed an excellent service and its work has become increasingly important, and

Whereas the Commission is authorized to distribute bulletins and periodicals concerning its work and the problems which are presented, with comments thereon, and

Whereas the people of the entire nation should be made aware of these problems and the Georgia and Southern viewpoint relating thereto, in order that the distorted views which have been presented by certain segments of the Northern press and other periodicals may be combatted: Now, therefore, be it

Resolved by the General Assembly of Georgia, That the Georgia Commission on Education is hereby authorized to proceed as aforesaid in presenting such problems and views, and funds therefor shall be made available as provided by law.

H. R No. 143–432a

By Mr. Hawkins of Screven

A RESOLUTION To create a joint interim committee of the House and Senate to investigate and hold hearings relative to the need, or lack of need, for legislation regulating and governing corporations, associations, organizations and other groups which seek to influence public opinion or encourage and promote litigation, to provide for the organization, powers, and duties of said committee; to provide for hearings; to authorize said committee to issue subpoenas and require testimony; to prescribe misdemeanor punishment for failure to respond to any such subpoena, or failure or refusal of any witness to answer any question, without cause; to provide for enforcement of such subpoena by contempt, to provide for witness fees; to provide for employment of a clerical and investigative force by the committee; to provide for payment of expenses; to provide that the Attorney General shall represent said committee; to repeal conflicting laws, and for other purposes

Whereas this General Assembly is reliably informed that certain corporations and organizations active in this State are fomenting strife, and encouraging and promoting litigation, and

Whereas this General Assembly also has before it evidence that certain of said corporations and organizations have communistic affiliations and backgrounds which have been withheld from the general public, and

Whereas said corporations and organizations are reported to be soliciting funds and memberships from well-meaning but misguided zealots and liberals who are not aware of the subversive character of such organizations and corporations, and

Whereas it is therefore appropriate that this General Assembly make investigation as to the need, or lack of need, for legislation regulating such organizations and associations to the end that the public will be better informed as to their true motives and aims: Now therefore be it

Resolved by the General Assembly as follows:

SECTION 1

There is hereby created a joint House-Senate Committee, to be composed of three members of the House appointed by the Speaker thereof, and three members of the Senate, to be appointed by the President thereof. The Speaker of the House and the Lieutenant-Governor will serve as ex-officio members of said Committee. Said Committee shall convene as soon as possible after adjournment of the General Assembly and organize by electing a Chairman.

SECTION 2

The Committee shall make a thorough investigation of the activities of all corporations, organizations, associations, and other like groups which seek to influence public opinion or encourage or promote litigation in this State. The Committee shall conduct its investigation so as to collect evidence and information which shall be necessary or useful in the drafting and preparation of legislation dealing with the following subjects

1. Barratry.

2 The need, or lack of need, for legislation requiring all corporations, organizations, associations and other groups, as referred to above, to register as lobbyists, and divulge information as to the public concerning their officials, memberships, finances, methods which would serve to protect the public in dealing with such associations or corporations.

3. Any needed amendments to the Subversive Activities Act.

4 The need, or lack of need, for legislation which would assist in the investigation of such organizations, corporations, and associations relative to the State income tax laws.

5 The need, or lack of need, for legislation redefining the taxable status of such corporations, associations, organizations and other groups, as above referred to, and further defining the status of donations to such organizations or corporations from a taxation standpoint.

SECTION 3

Said Committee may hold hearings anywhere in the State, and shall have authority to issue subpoenas requiring the attendance of witnesses and the production of papers, books, records, documents, and other evidence, which subpoenas may be served by any Sheriff of this State, or any agent or investigator of the Committee, and his return shown thereon. Any person, firm, corporation, association or organization which fails to appear in response to any such subpoena as therein required, or to produce any papers, records, documents, books or other evidence, or any person who fails or refuses, without legal cause, to answer any question propounded to him, shall be guilty of a misdemeanor and after conviction therefor shall be punished as provided by law. In addition, the testimony of such witness, of the production of any books, records, documents or other evidence may be compelled by the superior court of the county wherein such refusal or failure was made. Upon certification of such fact to the judge of the Superior Court by the Chairman of the Committee, it shall be the duty of said Judge to issue an attachment for contempt against such witness or person as in other cases, requiring the latter to show cause why he or she should not be held in civil contempt. The Chairman of the Committee, or anyone acting in his absence, shall be authorized to administer oath to all witnesses. Every witness appearing pursuant to subpoena shall be entitled to receive, upon request, the same fee as is provided by law for witnesses in the Superior Courts, and where the attendance of witnesses residing outside the county wherein the hearing is held is required, they shall be entitled to receive the sum of Seven ($7.00) Dollars after so appearing, upon certification thereof by the Chairman to the State Treasurer.

SECTION 4

Each member of the Committee shall receive, in addition to actual travel expenses, the same per diem as received by members of other interim committees, while engaged in official duties as a member of said Committee.

SECTION 5

Said Committee shall be authorized to employ a clerical force and such investigators and other personnel as it may deem necessary to carry out the provisions of this Act, and may expend moneys for the procuring of information from other sources.

SECTION 6

All funds herein authorized to be spent by the Committee, including the per diem and travel expenses of the members thereof, shall be paid out of funds appropriated by law for the General Assembly, upon certification to the State Treasurer of such expenses by the Chairman.

SECTION 7

The Attorney General shall be the legal counsel for the Committee, and the latter may require services of the Attorney General or an Assistant designated by him, in the conduct of hearings and examination of witnesses.

SECTION 8

Unless continued in effect by law, the Committee shall complete its investigations and make its report, together with any recommendations as to legislation, to the 1958 General Assembly.

SECTION 9

That all laws and parts of laws in conflict with this Act are hereby repealed.

H. B. No. 155

By Mr. Jones of Worth

PART A

STATEMENT OF LEGISLATIVE INTENT AND POLICY

We, the duly elected and qualified Representatives of the people of the sovereign State of Georgia—while questioning the motives, wisdom, and legality of the decision of the Supreme Court of the United States in reference to segregation in the public school systems—but being desirous of promoting peace and preserving the domestic tranquility of all citizens of Georgia, by complying, in good faith, with the purpose and intent of said Court decision—do hereby declare and proclaim these self-evident truths:

1. The State of Georgia has the largest Negro population of any State in the Union; that Georgia is now engaged in the most ambitious program of any State in the Union to equalize educational opportunities for all citizens.

2. We affirm our belief in the equality of man before God; in the equality of opportunity; in equal and exact justice before man and God for all citizens; in man's inalienable right to choose those with whom he associates; that History, sacred and profane, bears testimony to the wisdom of separation of races of widely differing origins, color, and inherent abilities, in social, personal and like relationships; Separation in these matters being the only solution for the thorny question posed if there be peaceable occupancy of common territory; that the God of Jacob and of Isaac, and the Prophets of Old decreed such separation

3 The founders of this Republic outlined in the Constitution and in the basic laws of this Nation—that every citizen was the architect of his own destiny, with freedom of choice to chart his own course, answerable only to his God, and to his conscience, but with a due regard for the rights of others to do likewise; that the inherent rights of individuals were paramount to the rights of the State; that rights of the States in certain defined fields were paramount to the rights of the Federal Government.

4. That "Public Opinion" is that sometimes mute, immutable, indefinable force, having neither shadow nor substance; before whose imperious tread Dictators and Autocrats tremble; Republics rise and fall; Nations flourish, decline and perish; and on whose sacred altar Statesmen gamble the fortunes and destiny of the nations of the World.

That no edict, opinion, law, or decision of any Court, Legislative Body, or Dictatorship, which carries not the genuine stamp of approval of a majority of "public opinion" in a given locality—is possible of enforcement in such locality without the use of naked, brute force, marshalled by a capable Cromwell, armed with shot, shell, and gallows.

5. That integration of the white and Negro races in the common schools of Georgia, inevitably and irrevocably would generate hatreds and suspicions, multiply murders, and degrade and retard the progress of both races with the end result of a mongrel race, having no pride of ancestry, nor much hope of a stable posterity.

6 With an honest and sincere conviction of the truth of the foregoing; with the knowledge of the courageous manner in which the descendants of Abraham have maintained the racial integrity of the Hebrews in the face of fire, persecution, dispersion, trial and tribulation·

Not on the shifting sands of political expediency do we build our house, but on the firm rock of Right, on the granite of Reason, on veritable bedrock, do we build our Temple of Racial Integrity. We unfurl our Flag, beyond which we pledge no further retreat for a brave and determined people; with an earnest and prayerful plea for the aid, advice and comfort of those of like mind and thought; but with the grim reminder that "a cowardly people die a thousand deaths, while a brave people die but once":

We, the Representatives of the people of the State of Georgia, present the following Act, in compliance, in good faith, with the unwise Ruling of the Supreme Court of the United States:

PART B

A BILL To be entitled an Act to provide for integrated Schools for the white and negro children of Georgia, in compliance in good faith with the ruling of the Supreme Court of the United States; to authorize the creation of the Georgia Integration Commission; to provide for the membership of said Commission, to provide that said Commission may

buy, sell, own, acquire, and hold both real and personal property, within and without the State of Georgia; To provide that said Commission may establish employment and information agencies both within and without the State of Georgia; to appropriate the initial sum of Five Million ($5,000,000.00) to finance the terms of this Act; to provide for Grants-In-Aid, under certain conditions by said Commission; to provide for penalties for violations of this Act; to provide for Grants-In-Aid to any citizen who may suffer hardships by reason of the terms of this Act; to provide for severability of the terms of this Act; to repeal all laws and parts of laws in conflict herewith, and for other purposes

Be it enacted by the General Assembly of the Sovereign State of Georgia, and it is hereby enacted by the authority of the same:

SECTION 1

There is hereby created a Commission to be known as the Georgia Integration Commission. The membership of said Commission shall be as follows: The Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Attorney General, the State School Superintendent, and three upright, intelligent citizens of Georgia of the Negro race.

The Governor shall be Chairman of said Commission.

The first five named members of said Commission shall hold membership by reason of the office to which they were elected or appointed, and the term of office of such members shall begin when they take the oath of office to which they were elected or appointed.

The last three named members of said Commission, shall be appointed by the Governor, and confirmed by the Senate; one of said members shall be President of an accredited, recognized negro institution of higher learning of the State of Georgia; one shall be a negro lawyer, and shall be appointed from a list of three names to be submitted by the Negro Bar Association of Georgia, if there be such; one shall be a successful negro businessman to be appointed from a list of three names to be submitted by the Negro Chamber of Commerce, if there be such; said nominees must be of good moral character, a citizen of Georgia for a period of ten years or more, and who has not been convicted of any crime involving moral turpitude. The term of office of such members shall be concurrent with the term of the Governor making the appointments.

A majority of the membership of the Commission shall constitute a quorum, with the authority to transact business brought before said Commission.

Vacancies caused by death, resignation, or otherwise, shall be filled as authorized by law for members of like boards, bureaus, or commissions.

The members of said Commission shall serve without pay, but may be compensated for actual traveling expenses, lodging, and meals, while attending meetings of the Commission, not to exceed a maximum of Twenty Dollars ($20.00) per diem.

The Commission shall hold regular monthly meetings at the State Capitol in Atlanta, Georgia, at designated times and places, notice of which shall be published in a newspaper or newspapers of general circulation.

SECTION 2

Be it further enacted by the authority aforesaid, that any white or negro citizen, who has been a resident of the State of Georgia for a period of ten years or more, and who petitions the Commission created herewith, on forms prescribed by said Commission, of his or her desire that his or her child or children attend an integrated school; said Commission being satisfied of the truth and validity of said petition—shall determine the number of children of said petitioner, their ages, names, etc., and it shall be the duty of said Commission to authorize a Grant-In-Aid for each such child, to be paid monthly, in an amount not to exceed the established cost of educating said child or children in present segregated schools in Georgia: *Provided, petitioner agrees, of his own free will and accord, that his child or children will attend an integrated school without the confines of the State of Georgia—in any State of the United States, of petitioner's own choosing.*

It shall be the duty of said Commission to continue such Grants-In-Aid up to and including a maximum of twelve years—or until such child is graduated from an integrated school (whichever is less).

SECTION 3

Be it further enacted by the Authority aforesaid, that said Commission, when it is shown to their satisfaction that any petitioner, white or colored, who

elects to come under the provisions of this Act, will suffer hardships by reason of such voluntary election, said Commission may authorize a Grant-In-Aid to such petitioner, to be paid in equal monthly installments, but in no event to exceed the sum of (1) One Thousand Dollars ($1,000.00), or (2) actual moving expenses, plus six months' rent for a new home, plus time lost while petitioner seeks employment (whichever is less)

SECTION 4

Be it further enacted by the Authority aforesaid, that said Commission is hereby authorized to buy, sell, trade, own, acquire, rent, lease, and administer both real and personal property within and without the confines of the State of Georgia, in order to carry out and effectuate the purposes and intent of this Act.

The said Commission is authorized to employ technical and clerical assistance needed or necessary, within or without the confines of the State of Georgia, and to fix their terms and compensation

The said Commission is authorized to set up Employment and Information Offices, within and without the State of Georgia, to aid in effectuating the purposes of this Act.

The said Commission is hereby authorized and directed to make all necessary rules and regulations not incompatible with the provisions of this Act, to carry out the intent and purpose of this Act. Certified copies of such rules and regulations shall be filed with the General Assembly on the first day of each regular session Said Commission shall make annual reports to the General Assembly, which shall be complete as to names, ages, addresses, race, etc., of recipients of such Grants-In-Aid authorized by this Act

SECTION 5

Be it further enacted by the authority aforesaid, that there is hereby appropriated the initial sum of Five Million Dollars ($5,000,000.00) to the Georgia Integration Commission, for the purposes of providing integrated schools for the white and negro children of Georgia, under the terms and conditions enumerated in Section 2 of this Act.

In the event the sum of Five Million Dollars ($5,000,000.00) is insufficient to defray the cost of such integrated schools for the years 1957–58, the Governor is hereby authorized and directed to make available to said Commission whatever funds are necessary from any funds unappropriated in the General Treasury, but in no event to exceed the amount of Ten Million Dollars ($10,000,000.00) annually.

SECTION 6

Be it further enacted by the authority aforesaid, that it is hereby declared to be the intent of the General Assembly of Georgia that the provisions of this Act apply only to those white and negro citizens of Georgia who petition said Commission for an integrated school, and said petitioner must present satisfactory, sworn evidence to said Commission that his or her petition is made of his or her own free will and accord, and that petitioner has not been coerced, intimidated, threatened, cajoled, forced, or suggestion made, in any improper manner, that petitioner make application for Grants-In-Aid authorized by this Act.

SECTION 7

Be it further enacted by the authority aforesaid, that any citizen of Georgia, white or negro, who is adjudged guilty by a court of competent jurisdiction of suggesting in any improper manner, coercing, intimidating, threatening, cajoling, forcing, or in any manner, causing a petitioner to make application to the Georgia Integration Commission, against his or her will, shall be guilty of a felony, and shall be punished by imprisonment in the penitentiary of this State for a period of not less than five, nor more than ten years.

SECTION 8

Be it further enacted by the authority aforesaid, that the General Assembly of Georgia hereby declares that the provisions of this Act to have been enacted separately, and that any part, section, sentence, or paragraph of this Act which is declared unconstitutional by a court of competent jurisdiction, shall be null

and void and of no force and effect, but the remaining portions of this Act shall remain of full force and effect.

SECTION 9

Be it further enacted by the authority aforesaid, that all laws or parts of laws in conflict with the provisions of this Act be, and the same are, hereby repealed.

H. B. No. 2

By Messrs. Moate of Hancock and Hawkins of Screven

A BILL To be entitled an Act in aid of existing powers and to confer additional powers upon the Governor of the State of Georgia, to authorize and empower the Governor of the State of Georgia to protect the public against violence, property damage, and overt threats of violence; to issue his proclamation and order; to order and direct any person, corporation, association, or group of persons, to prevent or refrain from causing damage to life, limb, or property, or a breach of the peace; to authorize and direct the State Militia, the sheriffs, or the Department of Public Safety, or any state or county official of the State of Georgia to maintain peace and good order, to provide for the enforcement of the Governor's proclamation relating to the same by all the courts of the State of Georgia, providing for the time limit within which this Act shall be effective, to provide emergency rules and regulations, and for other purposes

Whereas, the State of Georgia, through its constituted officials under the Constitution, statutory law and policy power of the State, may control violence (threatened or actual against persons or property); and, whereas, the state has the dominant interest in and is the natural guardian of the public against violence and is empowered under the general sovereign authority of the State to prevent violence and overt threats of violence;

Therefore, be it enacted by the legislature of the State of Georgia and it is hereby enacted by authority of the same:

SECTION 1. The Governor of the State of Georgia is hereby authorized and empowered to take such measures and to do all and every act and thing which he may deem necessary in order to prevent overt threats of violence, or violence to the person or property of citizens of the State and to maintain peace, tranquillity and good order in the State, and in any political subdivision thereof, and in any area of the State of Georgia designated by him.

SECTION 2. The Governor of the State of Georgia when, in his opinion, the facts warrant, shall, by proclamation, declare that, because of unlawful assemblage, violence, overt threats of violence, or otherwise, a danger exists to the person or property of any citizen or citizens of the State of Georgia and that the peace and tranquillity of the State of Georgia, or any political subdivision thereof, or any area of the State of Georgia designated by him, is threatened, and because thereof an emergency, with reference to said threats and danger, exists. In all such cases when the Governor of the State of Georgia shall issue his proclamation as herein provided he shall be and is hereby further authorized and empowered, to cope with said threats and dangers, to order and direct any individual person, corporation, association or group of persons to do any act which would in his opinion prevent danger to life, limb or property, prevent a breach of the peace or he may order such individual person, corporation, association or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb, or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of society, and shall have full power by appropriate means to enforce such order or proclamation.

SECTION 3. The Governor of Georgia is hereby authorized and empowered to promulgate and enforce such emergency rules and regulations as are necessary to prevent, control, or quell violence, threatened or actual, during any emergency lawfully declared by him to exist. In order to protect the public welfare, persons and property of citizens against violence, public property damage, overt threats of violence, and to maintain peace, tranquillity and good order in the State, these rules and regulations may control public parks, public buildings, public utilities, or any other public facility in Georgia, and shall regulate the manner of use, the time of use, and persons using the facility during any emergency. These rules and regulations shall have the same force and effect as law during any emergency, and shall remain in effect during a period of time and in such manner, and shall affect such persons, public utilities and public facilities as in the judgment of the Governor shall best provide a safeguard for protection of persons and property where danger, violence and threats exist, or are threatened among the citizens of Georgia.

SECTION 4. Whenever the Governor shall promulgate emergency rules and regulations, such rules and regulations shall be published and posted during the emergency in the area affected, and copies of the rules shall be filed with the Secretary of State for public record.

SECTION 5. The Governor shall have emergency power to call upon the military forces of the State or any other law enforcement agency, state or county, to enforce the rules and regulations authorized by this law.

SECTION 6. The Governor of the State of Georgia, upon the issuance of a proclamation as provided for in Section 2 hereof shall fortwith file the same in the office of the Secretary of State for recording, which proclamation shall be effective upon issuance and remain in full force and effect until revoked by the Governor, and he is hereby authorized and empowered to take and exercise any, either or all of the following actions, powers and prerogatives:

(a) Call out the military forces of the State (State Militia) and order and direct said forces to take such action as in his judgment may be necessary to avert the threatened danger and to maintain peace and good order in the particular circumstances

(b) Order any sheriff or sheriffs of this State, pursuant to a proclamation as herein provided, to exercise fully the powers granted them (suppress tumults, riots and unlawful assemblies in their counties with force and strong hand when necessary) and to do all things necessary to maintain peace and good order.

(c) Order and direct the Department of Public Safety, and each and every officer thereof, to do and perform such acts and services as he may direct and in his judgment necessary in the circumstances to maintain peace and good order.

(d) Authorize, order or direct any State, county or city official to enforce the provisions of such proclamation in each and every and all of the courts of the State of Georgia by injunction, mandamus, or other appropriate legal action.

SECTION 7. The Governor of the State of Georgia is hereby authorized and empowered to intervene in any situation where there exists violence, overt threats of violence to persons or property and take complete control thereof to prevent violence, or to quell violence or any disturbance or disorder which threatens the peace and good order of society.

SECTION 8 This Act shall take effect immediately upon its signature by the Governor.

H. B. No. 3 (SUB)

By Mr. Hawkins of Screven

AN ACT To amend an Act providing for compulsory school attendance, approved March 8, 1945 (Ga. Laws 1945, p. 343), so as to authorize the Governor to suspend the operation of such Act in whole or in part under certain circumstances; to provide the procedure relative to such suspension; to repeal conflicting laws; and for other purposes

Be it enacted by the General Assembly of Georgia:

SECTION 1

An Act providing for compulsory school attendance, approved March 8, 1945 (Ga. Laws 1945, p. 343), is hereby amended by adding a new section, to be known as Section 3A, to read as follows:

"Section 3A When, in the opinion of the Governor, it is necessary because of any riot, insurrection, public disorder, disturbance of the peace, natural calamity or disaster to suspend all or any part of this Act in order to protect persons and property or to preserve the health and welfare of the citizens of this State, or to preserve the general welfare of the State, he may do so by issuing his proclamation thereon and filing the same in the office of the Secretary of State. The Governor may proclaim such suspension effective over the entire State, or in any portion thereof."

SECTION 2

All laws and parts of laws in conflict with this Act are hereby repealed.

H. B. No. 2

Messrs. Moate of Hancock and Hawkins of Screven

AN ACT In aid of existing powers and to confer additional powers upon the Governor of the State of Georgia; to authorize and empower the Governor of the State of Georgia to protect the public against violence, property damage, and overt threats of violence; to issue his proclamation and order; to order and direct any person, corporation, association, or group of persons, to prevent or refrain from causing damage to life, limb, or property, or a breach of the peace; to authorize and direct the State Militia, the sheriffs, or the Department of Public Safety, or any state or county official of the State of Georgia to maintain peace and good order, to provide for the enforcement of the Governor's proclamation relating to the same by all the courts of the State of Georgia, providing for the time limit within which this Act shall be effective, to provide emergency rules and regulations, and for other purposes

Whereas, the State of Georgia, through its constituted officials under the Constitution, statutory law and policy power of the State, may control violence (threatened or actual against persons or property); and, whereas, the State has the dominant interest in and is the natural guardian of the public against violence and is empowered under the general sovereign authority of the State to prevent violence and overt threats of violence;

Therefore, be it enacted by the legislature of the State of Georgia and it is hereby enacted by authority of the same:

SECTION 1

The Governor of the State of Georgia is hereby authorized and empowered to take such measures and to do all and every act and thing which he may deem necessary in order to prevent overt threats of violence or violence, to the person or property of citizens of the State and to maintain peace, tranquillity and good order in the State, and in any political subdivision thereof, and in any area of the State of Georgia designated by him.

SECTION 2

The Governor of the State of Georgia when, in his opinion, the facts warrant, shall, by proclamation, declare that, because of unlawful assemblage, violence, overt threats of violence, or otherwise, a danger exists to the person or property of any citizen or citizens of the State of Georgia and that the peace and tranquillity of the State of Georgia, or any political subdivision thereof, or any area of the State of Georgia designated by him, is threatened, and because thereof an emergency, with reference to said threats and danger, exists. In all such cases when the Governor of the State of Georgia shall issue his proclamation as herein provided he shall be and is hereby further authorized and empowered, to cope with said threats and danger, to order and direct any individual person, corporation, association or group of persons to do any act which would in his opinion prevent danger to life, limb or property, prevent a breach of the peace or he may order such individual person, corporation, association or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb, or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of society, and shall have full power by appropriate means to enforce such order or proclamation.

SECTION 3

The Governor of Georgia is hereby authorized and empowered to promulgate and enforce such emergency rules and regulations as are necessary to prevent, control, or quell violence, threatened or actual, during any emergency lawfully declared by him to exist. In order to protect the public welfare, persons, and property of citizens against violence, public property damage, overt threats of violence, and to maintain peace, tranquillity and good order in the State, these rules and regulations may control public parks, public buildings, public utilities, or any other public facility in Georgia, and shall regulate the manner of use, the time of use, and persons using the facility during any emergency. These rules and regulations shall have the same force and effect as law during any emergency, and shall remain in effect during a period of time and in such manner, and shall affect such persons, public buildings, public utilities and public facili-

ties as in the judgment of the Governor shall best provide a safeguard for protection of persons and property where danger, violence and threats exist, or are threatened among the citizens of Georgia.

SECTION 4

Whenever the Governor shall promulgate emergency rules and regulations, such rules and regulations shall be published and posted during the emergency in the area affected, and copies of the rules shall be filed with the Secretary of State for public record.

SECTION 5

The Governor shall have emergency power to call upon the military forces of the State or any other law enforcement agency, state or county, to enforce the rules and regulations authorized by this law.

SECTION 6

The Governor of the State of Georgia, upon the issuance of a proclamation as provided for in Section 2 hereof shall forthwith file the same in the office of the Secretary of State for recording, which proclamation shall be effective upon issuance and remain in full force and effect until revoked by the Governor, and he is hereby authorized and empowered to take and exercise any, either or all of the following actions, powers and prerogatives:

(a) Call out the military forces of the State (State Militia) and order and direct said forces to take such action as in his judgment may be necessary to avert the threatened danger and to maintain peace and good order in the particular circumstances.

(b) Order any sheriff or sheriffs of this State, pursuant to a proclamation as herein provided, to exercise fully the powers granted them (suppress tumults, riots and unlawful assemblies in their counties with force and strong hand when necessary) and to do all things necessary to maintain peace and good order.

(c) Order and direct the Department of Public Safety, and each and every officer thereof, to do and perform such acts and services as he may direct and in his judgment necessary in the circumstances to maintain peace and good order.

(d) Authorize, order or direct any State, county or city official to enforce the provisions of such proclamation in each and every and all of the courts of the State of Georgia by injunction, mandamus, or other appropriate legal action.

SECTION 7

The Governor of the State of Georgia is hereby authorized and empowered to intervene in any situation where there exists violence, overt threats of violence to persons or property and take complete control thereof to prevent violence, or to quell violence or any disturbance or disorder which threatens the peace and good order of society.

SECTION 8

This Act shall take effect immediately upon its signature by the Governor.

SB No. 39

By Senator Cook of the 42d

A BILL To be entitled an Act to amend Chapter 38-12 of the Code, relating to discovery at law, by adding thereto a new section, to be known as Section 38-1206, which shall provide that upon motion of any party showing good cause therefor and upon notice to all other parties, any court in which an action is pending shall order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party, or other claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, and other tangible things and the identity and location of persons having knowledge of relevant facts, and which are in his possession, custody, or control or order any party to permit entry upon designated land or other property in his possession or control, for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon that is relevant in any way to the pending action, and to provide that the order of the court shall specify the time, place, and manner of making the inspection and taking the copies and photographs, and prescribing such terms and conditions as are just, to repeal conflicting laws, and for other purposes

Be it enacted by the General Assembly of Georgia:

SECTION 1. Chapter 38–12 of the Code of Georgia, relating to discovery at law, is hereby amended, by adding to said Chapter a new section, to be known as Section 38–1206, and which shall read as follows:

"38–1206. Upon motion of any party showing good cause therefor, and upon notice to all other parties, any court in which an action is pending shall (1) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party, or other claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, and other tangible things, and the identity and location of persons having knowledge of relevant facts, and which are in his possession, custody or control; or (2) order any party to permit entry upon designated land or other property in his possession or control, for the purpose of inspecting, measuring, surveying or photographing the property or any designated object or operation thereon that is relevant in any way to the pending action, and to provide that the order of the court shall specify the time, place and manner of making the inspection and taking the copies and photographs, and prescribing such terms and conditions as are just."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

Senate Bill No. 44

By Sen. Butts of the 12th

A BILL To be entitled an act to prohibit all interracial dancing, social functions, entertainments, athletic training, games, sports, or contests and other such activities, to provide for separate seating and other facilities for whites and Negroes; to provide penalties for the violation of this Act, to provide a date on which this Act shall become effective, and to repeal all laws or parts of laws in conflict herewith

Be it enacted by the General Assembly of Georgia and it is hereby enacted by the authority of the same:

SECTION. 1. That all persons, firms, and corporations are prohibited from sponsoring, arranging, participating in, or permitting on premises under their control any dancing, social functions, entertainments, athletic training, games, sports, or contests and other such activities involving personal and social contacts, in which the participants or contestants are members of the white and negro races.

SECTION 2. That at any entertainment or athletic contests, where the public is invited or may attend, the sponsors or those in control of the premises shall provide separate seating arrangements, and separate sanitary, drinking water, and any other facilities for members of the white and negro races, and to mark such separate accommodations and facilities with signs printing in bold letters.

SECTION 3. That white persons are prohibited from sitting in or using any part of seating arrangements and sanitary or other facilities set apart for members of the negro race; and members of the negro race are prohibited from sitting in or using any part of seating arrangements and sanitary or other facilities set apart for white persons.

SECTION 4. Any person, firm, or corporation violating the provisions of this Act shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $100 or more than $1,000 and imprisoned for not less than 60 days or more than 1 year.

SECTION 5. This Act is passed in the exercise of the State Police Power to regulate public health, morals and to maintain peace and good order in the State and shall be so construed. This Act shall become effective immediately upon the signature of the Governor.

SECTION 6. That any laws or parts of laws in conflict herewith be and the same are hereby repealed.

Mr. BLOCH. Answering the chairman's question, I thought I ought to tell you that I was familiar with the whole paternity of that act.

The CHAIRMAN. I did not read all of the provisions, but there is another provision which is rather straight, "The rules and regulations (of the Commission) shall have the same force and effect as law."

Mr. BLOCH. Yes, sir. I can answer the chairman's question as to the difference between that and this bill. Under the law we have the sovereign State of Georgia authorized under the 10th amendment to the Constitution of the United States to manage its own internal affairs, exercising the police power which it has, the power to regulate the health, morals, and welfare of the people.

Acting in a homogeneous community, or more or less homogeneous community, regulating the health and morals under constitutional powers, there is no question about the constitutionality or the propriety of that act.

Here, not questioning the propriety—I have no right to do it—I say to you that the Congress of the United States has no such power over the United States as a whole as the Georgia Legislature has over the State of Georgia.

The CHAIRMAN. That gives the President the right to appoint a commission which might discover and inquire as to whether the laws of the United States are properly being executed. He is the architect of the execution of the laws of the United States. He is the Chief Executive Officer of the United States. There is no question about the constitutionality of that power. We give it to him here, and we help him set up this decision.

Mr. KEATING. Do I understand, Mr. Bloch, that you contend that part I of H. R. 1151 is unconstitutional?

Mr. BLOCH. Part I?

Mr. KEATING. The one setting up the Commission.

Mr. BLOCH. I would not say that it was unconstitutional as a whole, Mr. Keating; no, sir. I would not go so far as to say that without further study of it. I do say, if I can find it here—

> It shall be the duty and function of the Commission to gather timely and authoritative information concerning social and legal developments affecting the civil rights of individuals—

and so forth.

I get the two bills confused sometimes. I do not believe the Commission is given subpena powers in your bill.

Mr. KEATING. Yes; it is given subpena powers.

Mr. BLOCH. What section is that?

Mr. FOLEY. In 1151 it is, but not in 2145.

Mr. KEATING. Page 5, the first paragraph, line 6.

Mr. BLOCH [reading]:

> The Commission and a subcommittee of two or more members may for the purpose of carrying out the provision of this act hold such hearings at such time and place as the Commission or authorized subcommittee may deem advisable, subpenaes for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over the signature of the Chairman of the Commission or such committee may be served by any person designated by such Chairman.

Mr. Keating, without being able to give you any decision or opinion of the Supreme Court of the United States on the spur of the moment to back it up, I am of the opinion that the Congress cannot create a commission with roving powers or a roving commission with powers to subpena here to Washington any person to testify on any subject which the 5 members of that Commission, or 2 of them may think violates somebody's civil rights.

Mr. KEATING. Such commissions have in the past been created with such powers, but I cannot tell you offhand whether that has ever been tested in the courts or not.

Mr. BLOCH. It so happens that I have been asked a similar question about a bill that has similar provisions, and it may be that a little later I could answer questions about the constitutionality of that.

The CHAIRMAN. Why do you not let us have the benefit of your legal acumen and legal advice and consultance and write a little memorandum on that subsequently.

Mr. BLOCH. I would be very glad to do that.

The CHAIRMAN. I want to say that in H. R. 2145 there are no subpena powers given to the Commission set up by the President. There are subpena powers given to a joint congressional committee to investigate civil rights. In H. R. 1151 there is subpena power given to the President's Commission.

Mr. KEATING. I say to you frankly, Mr. Bloch, I am going to try to convince the chairman that subpena power is very necessary and should be in this legislation.

The CHAIRMAN. The mere fact I left it out of my bill does not mean I am not in accord with the gentleman.

Mr. KEATING. I am sure that the chairman and I can get together on that feature.

The CHAIRMAN. We would like to have a little memorandum from you.

Mr. BLOCH. I shall be very glad to prepare it and have it to you in 10 days or so.

The CHAIRMAN. Very well.

(The information follows:)

FEBRUARY 14, 1957.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: At page 497 of the unrevised stenographic transcript of hearings before Subcommittee No. 5 of the Committee on the Judiciary of the House of Representatives, February 7, 1957, I stated:

"Mr. Keating, without being able to give you any decision or opinion of the Supreme Court of the United States on the spur of the moment to back it up, I am of the opinion that the Congress cannot create a commission with roving powers, or a roving commission to subpena here to Washington any person to testify on any subject which the 5 members of the Commission, or 2 of them, may think violates somebody's civil rights."

Mr. Keating said: "Such commissions have in the past been created with such powers, but I cannot tell you offhand whether that has ever been tested in the courts or not."

Later, at page 498, the chairman said, addressing the writer: "We would like to have a little memorandum from you."

And still later, at page 542, Chairman Celler said: "This is only a basis. Out of this particular instance you speak of, something may evolve that would indicate a violation of law. We do not know. We have to investigate the whole setting of this situation. That is what the Commission is for."

And still further along, at page 513, he said: "You do not have to have exact powers to go into details as to a general setting out of which may spring illegalities. You just cannot draw a firm line and say you can investigate this and you cannot investigate that. You have to consider the environment out of which these things may spring. It may be necessary to do exactly what you indicated in that hypothetical question. I think that is all afield. *I think that this Commission should have a right to go into an area and get a general view of economic conditions in that area out of which spring these difficulties. It has a perfect right to do it. I can conceive of no illegality in that whatsoever. It may be that Congress could not legislate in that particular case that you gave as an illus-*

tration, but that is only part of a setting. It is like a jigsaw puzzle. It is only a part of that puzzle that the Commission is trying to put together. It has a perfect right to do that."

I then replied, "I have always had the idea—I may be wrong about it—that the Congress of the United States did not have the power to investigate with respect to a matter unless it had the power to legislate with respect to that matter."

If that statement of law made by me to the committee on February 7, 1957, is correct, I think it follows that section 103 (a) of H. R. 1151, and similar provisions in H. R. 2145, are invalid. And I think the statement is a correct one.

In the case of *Kilbourn* v. *Thompson* (103 U. S. 168, at p. 190) the Supreme Court of the United States, speaking through Mr. Justice Miller, said:

"Whether the power of punishment in either House by fine or imprisonment goes beyond this or not, we are sure that no person can be punished for contumacy as a witness before either House, unless his testimony is required in a matter into which that House has jurisdiction to inquire, and we feel equally sure that neither of these bodies possesses the general power of making inquiry into the private affairs of the citizens."

In the case of *Marshall* v. *Gordon* (243 U. S. 521) the Supreme Court of the United States, speaking through Mr Chief Justice White, decided this principle:

"The House has implied power to deal directly with contempt *so far as is necessary to preserve and exercise the legislative authority expressly granted*" [emphasis mine] (at p 522).

The case of *Marshall* v. *Gordon* was alluded to, along with other cases, in the case of *McGrain* v. *Daugherty* (273 U. S. 135), and at pages 173–174 the Court, speaking through Mr Justice VanDevanter, said:

"While these cases are not decisive of the question we are considering, they definitely settle two propositions which we recognize as entirely sound and have a bearing on its solution· One, that the two Houses of Congress, in their separate relations, possess not only such powers as are expressly granted to them by the Constitution but such auxiliary powers as are necessary and appropriate to make the expressed powers effective; and the other, that neither House is invested with 'general' power to inquire into private affairs and compel disclosures, but only with such limited power of inquiry as is shown to exist when *the rule of constitutional interpretation just stated is rightly applied.*" [The emphasis is mine.]

The Court then stated that the latter proposition had support in *Harriman* v. *Interstate Commerce Commission* (211 U S. 407, 417–419) and *Federal Trade Commission* v *American Tobacco Co.* (264 U. S. 298, 305, 306).

In *U S.* v. *Rumely* (345 U. S. 41) Justice Frankfurther does refer to the "loose language of *Kilbourn* v. *Thompson*," supra, and to "the weighty criticism to which it has been subjected," and says that inroads have been made upon it by later cases which are cited.

But in 1955, in the case of *Quinn* v *United States of America* (349 U. S. 155), Chief Justice Warren, speaking for the Court, said:

"There can be no doubt as to the power of Congress, by itself or through its committees, to investigate matters and conditions relating to contemplated legislation This power, deeply rooted in American and English institutions, is indeed coextensive with the power to legislate. Without the power to investigate, including, of course, the authority to compel testimony, either through its own processes or through judicial trial, Congress could be seriously handicapped in its efforts to exercise its constitutional function wisely and effectively. But the power to investigate, broad as it may be, is also subject to recognized limitations. It cannot be used to inquire into private affairs unrelated to a valid legislative purpose. Nor does it extend into an area in which Congress is forbidden to legislate Similarly, the power to investigate must not be confused with any of the powers of law enforcement; those powers are assigned under our Constitution to the Executive and to the judiciary. Still further limitations on the power to investigate are found in the specific individual guaranties of the Bill of Rights, such as the fifth amendment's privilege against self-incrimination which is in issue here."

While Mr Justice Harlan concurred specially, and Justice Reed dissented, and Justice Minton filed a special joinder, I find no criticism by Justice Frankfurter of the Chief Justice's statement.

It is palpable that the proposed bill violates the yardstick laid down by the Chief Justice, in that it certainly does "extend to an area in which Congress is forbidden to legislate," and it provides for a commission which can "be used to inquire into private affairs unrelated to a valid legislative purpose."

At page 514 of the aforesaid hearing, I said: "The only other question, Mr. Chairman, that I had on my memorandum for discussion was the section of your bill and Mr. Keating's bill, H. R. 2145 and H. R. 1151, was the injunctive power. I do not want to take up all your time here, because there are other gentlemen here who want to be heard. I do have some very distinct views about that injunctive power. I think it is too broad. But I will be glad to include that in my memorandum that I am going to submit to you, and let somebody else talk now, with my deepest thanks to all of you gentlemen for your courtesies and the opportunity to answer questions."

The language to which I referred was: "Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order * * *. The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section, and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

I have covered this phase of the question somewhat in the memorandum filed with the committee. Of course, I cannot say that the Congress does not have the power to enact that kind of legislation. I do say that the Congress ought not to, because such legislation violates every principle of "equity jurisprudence" and "equity jurisdiction" as applied to injunction proceedings. From times immemorial, injunctions have been considered a matter of grace and not a matter of right. The use of the power was solely within the discretion of the chancellor. There is a possible constitutional attack on this phase of the program in that it has every earmark of being an encroachment by the legislative department upon the time-honored and traditional prerogatives of the judicial department.

"Courts of equity exercise discretionary power in the granting or withholding of their extraordinary remedies. Although this discretionary power is not restricted to any particular remedy, it is particularly applicable to injunction, since that is the strong arm of equity and calls for great caution and deliberation on the part of the court. By statutory provision, * * * a positive duty may be imposed upon the court to grant injunctive relief when certain specified conditions are made to appear, but in the absence of such provisions there is ordinarily no absolute right to injunction. The relief is not given as a matter of course for any and every act done or threatened to the person or property of another; its granting rests in the sound discretion of the court, to be exercised in accordance with well-settled, equitable principles, and in the light of all the facts and circumstances in the case, of which the presiding judge has the right to require a full and candid disclosure; and if he is satisfied that this has not been done, he may refuse to exercise his extraordinary power" (28 American Jurisprudence, p. 230).

The above quotation cites for its support many cases, including several decisions of the Supreme Court of the United States cited for the proposition: "The relief is not given as a matter of course for any and every act done or threatened to the person or property of another; its granting rests in the sound discretion of the court * * *."

The proposed legislation seeks to remove that discretion.

The power to grant injunctions is frequently termed "the strong arm of equity" (*Truly* v. *Wanzer* (5 Howard (U. S.) 141)). It has been termed a "transcendant or extraordinary remedy" (*Irwin* v. *Dixon* (9 Howard (U. S.) 10), *Connecticut* v. *Massachusetts* (282 U. S. 660)).

Injunction is an equitable remedy. Its grant or denial in a particular case is governed by those fundamental and established principles by which courts of equity are guided and influenced in their judicial action and in the administration of relief. Some of the rules applicable to the exercise of the power are as binding on the courts as are the rules of law in any case; but, in a measure, the application for injunction is addressed to the conscience and sound discretion of the chancellor. (See 28 American Jurisprudence, p. 216.) This legislation would substitute the will of Congress, and the will of the Attorney General for "the conscience and sound discretion of the chancellor."

Very truly yours,

CHARLES J. BLOCH.

Mr. BLOCH. I think that would shorten a whole lot of what I had from here on except that I did want to point out this to you on page 14 of my written statement:

It is difficult to understand how any executive officer of this administration can sponsor such a provision. For, less than 5 years ago, the beloved and respected gentleman who is now President was touring the South. He made a speech at New Orleans, La., on October 13, 1952 He said:

"First, I deplore and will always resist Federal encroachment upon rights and affairs of the States Second, I am gravely concerned over the threat to the States inherent in the growth of this power-hungry movement. * * *"

That was a quotation from the New York Times of October 14, 1952, page 26.

The CHAIRMAN. That was during a campaign, I think.

Mr. BLOCH. Yes, sir. It was during the campaign and he carried some States down there. It was the best States rights speech I think I ever heard.

Mr. KEATING. He did not carry Georgia.

Mr. BLOCH. He got my vote.

Mr. KEATING. I congratulate you. I am glad that you and I agree on some things, at least.

Mr. BLOCH. These 2 speeches got me out of the Democratic Party, and I had been prior to that time a delegate to 4 national conventions.

The CHAIRMAN. Are you sorry you voted, now that he is advocating the civil-rights legislation?

Mr. BLOCH. Mr. Chairman, he is still President. [Laughter.]

Mr. ROGERS. Now that we are in politics, can you give any reason why President Eisenhower carried two more Southern States in 1956 than he did in 1952? Do you know any reason why he should carry two more, Louisiana and Florida?

Mr. BLOCH. No, sir; I can't. To be perfectly fair with you, Mr. Rogers, I never could understand why the Southern States voted for either one of them. If I had my way about it, they would not have.

The day after that General Eisenhower spoke at Houston, Tex., and there he said:

America was built by a robust and vigorous people They operated first through the original States and then through a balance of State and Federal powers. That balance was designed to keep as much of the Government as close to the people as possible. No nation of free men was ever built from the top down. That system of government has served us well for 160 years. That system is one in which the States have a vital part. The preservation of local order, elbowroom to produce and build, protection of our titles to land, the sacredness of our homes from intrusion, our right to get the best schooling for our children—we were secured these basic freedoms in the first instance by our State, our county, and our own hometown. These are primarily affairs for logical—

and I have a query if "local" was not meant—

administration. We must keep them so. Otherwise an all-powerful Washington bureaucracy will rob us one by one of the whole bundle of our liberties. We must preserve and protect this matchless system of States united.

In the face of these declared principles—in the face of the President's fear that "an all-powerful Washington bureaucracy will rob us one by one of the whole bundle of our liberties," how can the chief law officer appointed by him advocate the creation of this supergrand jury. No one who advocates such a commission can believe as the President does, that "we must preserve and protect this matchless system of States united."

This legislation does not preserve and protect that "matchless system". It destroys it and tends to make vassal satrapies of what have been sovereign States.

Mr. KEATING. Mr. Bloch, not only does the chief law officer advocate this bill, but the President of the United States advocates it, I advocate it, and I believe that it does preserve and protect the matchless system to which the President referred. I am sure he does. I believe him to be a sincere man. It is simply a difference of viewpoint. I believe that he would repeat today all of the things which he said there, and that they have no application whatever to the legislation which is before us. That is my belief.

The CHAIRMAN. The gentleman who is addressing us, Mr. Bloch, is not going to vote for President Eisenhower again.

Mr. KEATING. He cannot. The President has already said he is not going to run again. There is no chance. He will not have the opportunity.

Mr. BLOCH. Mr. Keating, you are an elected Representative of the people of your district in the legislative branch of the Government. My criticism—I have no right to criticize anybody—but my suggestion was addressed to the executive branch of the Government. I cannot, to save my soul, see how anybody who advocated those principles 5 years ago can now sponsor H. R. 1151 or H. R. 2145.

Mr. KEATING. I go further and say that I think he today would make that same speech and believes exactly today what he said 5 years ago.

The CHAIRMAN. That is what you call talking out of both sides of one's mouth.

Mr. KEATING. I do not agree with the chairman. I do not see any inconsistency between this statement and the advancement of the position which he takes today here. I think that the chairman and the Democratic Party ought to stand back of exactly what was said in the quoted part there as well as any candidate for President on the Republican side. I think that sets forth true Americanism that has no relation to party whatever.

The CHAIRMAN. I want to say that I am for the bill, but I certainly would never have the temerity to make the statement that the President did when he was seeking election. I see utter inconsistencies between what he said then and what he advocates now.

Mr. KEATING. I do not propose to present here all of the speeches of the Democratic candidate for President of the United States and what he said in various sections of the country, and the things he did to try to get elected, because I do not see that it serves any useful purpose. However, I do think that this statement is in exact accord with advancing this bill here. While I have no political reason to make either statement, I agree with what the President said here, and I agree that this bill is sound legislation.

The CHAIRMAN. Let us continue.

Mr. BLOCH. I particularly call your attention to the next to the last sentence in the last quotation I read:

> Otherwise an all-powerful Washington bureaucracy will rob us one by one of the whole bundle of our liberties.

If you apply that sentence to either H. R. 2145 or H. R. 1151, what I fear, and what we of the South fear, is that if a commission is established under either one of those bills, that that commission will be that

all-powerful Washington bureaucracy which will rob us one by one of our whole bundle of our liberties.

Mr. KEATING. This is a commission created by Congress. I share the President's view that we are in great danger of having our liberties taken away from us by an all-powerful bureaucracy in Washington. I share that completely. But I do not think it has any pertinency to this legislation which is before us today, or at least to H. R. 1151.

Mr. BLOCH. Mr. Keating, I have no right to ask you a question, but I will ask a rhetorical question: If the two bills that I have just mentioned do not create an all powerful Washington bureaucracy within the language of that statement, can you conceive of such an all-powerful bureaucracy being created?

Mr. KEATING. I sure can, because this temporary Commission has no power to enforce anything. All they are is a factfinding body. Their findings are not controlling on anyone. They have only a power to investigate and to look into whether the laws and policies of the Federal Government are sound or not, and to investigate allegations. They cannot do a thing. They have no power in the sense that that phrase is used of an all-powerful Washington bureaucracy. They have no such power whatever. If anything, this bill H. R. 1151 should be strengthened up to give them more power. But even then they would not be all powerful or anything approaching it. This is simply a factfinding commission, such as we have had time and again in the history of our Government and which is designed, I hope, to avoid the creation of bureaucracies which are all powerful and which will impose their will, improperly, in various areas of our State life.

Mr. BLOCH. May I call your attention, sir, to subsection (c) of section 104 of your bill, on page 5:

> The Commission or on the authorization of the Commission any subcommittee of two or more members may for the purpose of carrying out the provisions of this act hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable.

What is going to be the subject matter of those hearings?

Mr. KEATING. The subject matter is set forth on page 3 under section 103, the three things which the Commission is authorized to investigate.

Mr. BLOCH. Going back to section 103 (a) on page 3—

> to investigate allegations—

whose allegations, sworn or unsworn—

> that certain citizens of the United States—

what citizens—

> are being deprived of their right to vote or being subjected to unwarranted economic pressures by reason of their color, race, religion or national origin.

If you could establish a more all-powerful bureaucracy in Washington or anywhere else, with all respect to you as author of the bill, I cannot dream of a commission being established with broader powers than one given the right to investigate allegations, unsworn—just allegations, rumors—that certain citizens of the United States are being deprived of their right to vote, or are being subjected to unwarranted economic pressure.

What is unwarranted economic pressure?

The CHAIRMAN. Loss of a job or failure to get a job might be that kind of pressure. In other words, we are not going to give you a job unless you do thus and so.

Mr. BLOCH. That is the chairman's definition of an unwarranted economic pressure, but the bill does not say that.

The CHAIRMAN. That is only one. There are many I could conjure up.

Mr. KEATING. Mr. Bloch, you know in these matters the legislation itself does not spell out every detail. Any commission sets up regulations. The caliber of the Commissioners that are contemplated in this legislation would set up very careful rules to govern their conduct. The important thing is that this is just an investigatory commission without any powers to enforce what its findings are in any way, shape, or manner. They are not what we speak of as a Washington bureaucracy, all of these boards and commissions which have been created in Washington, many of which are necessary, which have powers. They have power to enforce their decisions. No such powers are given to this Commission. It is not the type of bureaucracy which the President in any way was referring to in the sentence that you quoted from his speech, in my judgment.

Mr. BLOCH. Mr. Keating, I recognize the rule of constitutional law that Congress has a right to establish bureaus and commissions, but I thought the law was, and I thought that the Supreme Court of the United States repeatedly held, that in establishing those commissions or bureaus that a set of standards had to be laid down. That is what Panama Refining Company against Ryan held.

Mr. FOLEY. That was a regulatory agency. Here there is no delegation of legislative power so no standards are required.

The CHAIRMAN. When the matter came to the floor of the House an amendment was offered and carried providing for certain criteria to govern the Commission in its work. We will consider such criteria when we go into debate. That is, the subcommittee will consider such criteria.

Mr. KEATING. But I think it is very important to point out, as the counsel has called my attention to, that in the case to which you are referring it was a regulatory commission. It was a commission with very extensive powers. This is a commission that is simply a fact-finding body, to find facts upon which the Congress or the Executive can or does not have to act just as they see fit.

Mr. BLOCH. I think the difference perhaps is that no legislative powers are delegated by the Congress to this Commission. That may make a fundamental difference in it.

The CHAIRMAN. All this Commission can do is make inquiry, find out facts, make recommendations, form conclusions, period. That is all they can do.

Mr. BLOCH. Yes, sir. But as Mr. Keating points out, while it may not be able to adopt any regulations that have the force of law, I imagine that a witness before it will be sworn. He is there under subpena. I can conceive of this very, very horrible situation, that where a man from the State of Washington, for the sake of example, might be called to appear before this Commission here in Washington to investigate what somebody says is an unwarranted economic pressure on him, whatever that may mean—the chairman has given one example of it—and he will swear that he did not do it. The fellow

who was pressured will swear that he did. I just dread to think of the number of perjury cases that might grow out of it or contempt cases.

The CHAIRMAN. I do not think anybody from the State of Washington would be subpenaed to come to the city of Washington. That is why subcommittees are set up. In the matter that you spoke of, of course, if there is perjury, if a man does not tell the truth under oath, then there is a violation under law, and he can be prosecuted for the violation of that statute.

Mr. BLOCH. He can be prosecuted by testifying falsely before a commission which has not any legislative power.

The CHAIRMAN. We have many such commissions with such subpena powers. We have any number of commissions now in Washington set up to investigate quite a number of subjects.

Mr. BLOCH. As I see the thing, Mr. Chairman, to reduce it to its least common denominator, I will use myself as the guinea pig. If I were to go to a hotel in Seattle, Wash., and would be refused a room, I could get it into my head that I had been deprived of a right under the Constitution of the United States, or an economic pressure of some sort by not being given a room out there, and make a complaint against the owner of that hotel before this Commission in Washington.

The CHAIRMAN. I take it that the men appointed to that Commission would consider that not a proper complaint. There can be a lot of reasons conjured up.

Mr. BLOCH. But there are no standards set up.

The CHAIRMAN. There must be some substantial basis for that. I do not think that this Commission upon whom we must place some reliance, because the President is undoubtedly going to appoint men who are reasonable, of commonsense and of understanding of these problems, you cannot in a legislative enactment lay down every conceivable criteria as to the appointment, as to how and in what manner and what mode these inquiries shall be conducted. You just cannot do that. You have to have faith and confidence in somebody and somebody that will be appointed by the President.

Mr. BLOCH. Let us take the example that the chairman gave a while ago of what was meant by unwarranted economic pressure, of firing a man from his job, I believe you said, or discharging a man from his position. Suppose a man were fired from his position on the ground that he was a Catholic or Jew or Protestant—it does not make any difference which—or Moslem—and suppose he got the idea that he was fired because of his religion.

The CHAIRMAN. That is just an idea, and that would not be in there.

Mr. BLOCH. That is what it says. If you substitute for the phrase "unwarranted economic pressure" the phrase that the chairman used for being discharged from his position by reason of color, race and so forth.

The CHAIRMAN. If I am working in a certain job, and my employer comes to me and says, "Unless you vote for so and so, you will lose your job," that is what I meant by an economic pressure.

Mr. BLOCH. Yes, but the language of 103 (a) (1) goes beyond that. It says by reason of their color, race, religion or national origin.

Mr. KEATING. In my opinion, I think you probably have fixed upon a situation which might give rise to an investigation. The thing that

you must remember is that if a committee or commission investigated everybody that filed a complaint, they would not be doing anything else. This Judiciary Committee every day has complaints filed with it against some Federal judge or somebody that do not rise to the dignity of rising to an investigation. This Commission would have many such complaints filed with it. It would depend upon the Commission itself to cull those out, select the cases which were significant, and to hold hearings on them. You have to place some reliance in people that are going to be named to this Commission. They are not going to investigate every single complaint from all over. If there were a series of them on the west coast, they would appoint a subcommittee and go there and investigate them.

It is true with this legislation like any other legislation in the light of practicalities, that is the way those things have to be done.

Mr. BLOCH. Laying aside the practicality of it, look at the legality of it. Suppose a man were discharged from his position by reason of his religion or national origin—and again I have no right to ask you a question, and I am posing a rhetorical question—what does the Congress of the United States have to do with that? What provision of the Constitution of the United States gives the Congress of the United States anything to do with a man being fired from his job by reason of his religion or national origin? Do not get into that. Leave race or color out. What provision of the Constitution of the United States gives the Congress the right to regulate a man from being fired from his job because of religion or national origin?

Mr. KEATING. We are not regulating. There is no regulatory power whatever.

Mr. BLOCH. What do they want to investigate for?

The CHAIRMAN. This is only a basis. Out of this particular instance you speak of, something may evolve that would indicate a violation of law. We do not know. We have to investigate the whole setting of this situation. That is what the Commission is for.

Mr. KEATING. There are a lot of us that think that if a man is deprived of his job—leave out race—because of his religion or his national origin, that it is a proper subject for the Congress of the United States to look into.

Mr. MILLER. What do the members of the committee say about a man being deprived of his job because he was not a member of a union? Why do we not investigate that, too?

Mr. BLOCH. The Congress of the United States might have something to do with that because they have passed laws with respect to unions under their power to regulate commerce between States. Therefore, they might have some constitutional right to investigate and legislate if a man is fired by reason of belonging to a union.

Mr. KEATING. I think they would have legislative power to investigate that.

Mr. BLOCH. Under what power of Congress?

The CHAIRMAN. You do not have to have exact powers to go into details as to a general setting out of which may spring illegalities. You just cannot draw a firm line and say you can investigate this and you cannot investigate that. You have to consider the environment out of which these things may spring. It may be necessary to do exactly what you indicated in that hypothetical question. I think that is all afield. I think that this Commission should have a right to go

into an area and get the general view of the economic conditions in that area out of which spring these difficulties. It has a perfect right to do it. I can conceive of no illegality in that whatsoever. It may be that Congress could not legislate in that particular case that you gave as an illustration, but that is only part of a setting. It is like a jigsaw puzzle. It is only a part of that puzzle that the Commission is trying to put together. It has a perfect right to do that.

Mr. BLOCH. I have always had he idea—I may be wrong about it—that the Congress of the United States did not have the power to investigate with respect to a matter unless it had the power to legislate with respect to that matter.

The CHAIRMAN. We check on many things, and on many things there would be no power to legislate except in the whole. You have to see the whole picture. We go far afield sometimes in our investigative powers, but we cannot be pinpointed on the legality of every one of our acts. It is in the general atmosphere that we have a perfect right to go in and investigate generally. That is what this Commission will have a right to do.

Mr. ROGERS. Are you afraid that by this power it may fall into the hands of evil men who may abuse the power?

Mr. BLOCH. There is always that possibility, Mr. Rogers. I do not say I am afraid of it, but there is always that possiblity.

The only other question, Mr. Chairman, that I had on my memorandum for discussion was that section of your bill, and Mr. Keating's bill, H. R. 2145 and H. R. 1151, was the injunctive powers. I do not want to take up all your time here, because there are other gentlemen here who want to be heard. I do have some very distinct views about that power of injunction. I think it is too broad, but I will be glad to include that in my memorandum that I am going to submit to you and let somebody else talk a while now, with my deepest thanks to all of you gentlemen for your courtesies and the opportunity to answer questions.

The CHAIRMAN. I want to say, Mr. Bloch, your recital has been most refreshing and very helpful. It has been a clear and cogent and legal argument which is quite essential in the inquiry we are conducting. We are very grateful to you.

Mr. BLOCH. Thank you, sir.

Mr. KEATING. I want to say that I have not heard in these hearings nor in our ones last year a more convincing witness than you on your side of the presentation.

Mr. BLOCH. Thank you, Mr. Keating. I am grateful for that.

Mr. KEATING. It has been a very fine presentation and shows a deep amount of study of these problems, and this citation of authorities is very helpful.

Mr. BLOCH. Thank you.

Hhe CHAIRMAN. I want to say that Georgia can be proud of you and you can be proud of Georgia.

Mr. BLOCH. I am proud of Georgia.

(The full statement follows:)

STATEMENT BY CHARLES J. BLOCH, APPEARING ON BEHALF OF THE STATE OF GEORGIA BY AUTHORITY OF HIS EXCELLENCY, GOV. MARVIN GRIFFIN, AND THE ATTORNEY GENERAL, HON. EUGENE COOK

My name is Charles J. Bloch. I am a lawyer of Macon, Ga. I was born in Baton Rouge, La., in 1893 I have lived in Macon since 1901, and practiced law

there since 1914.' I have been president of the Georgia Bar Association (1944–45). I have been treasurer of the students' loan commission of that group since about 1941. I am chairman of the Judicial Council of Georgia, and have been so practically since its creation in 1945. I have been a member of the board of regents of the University System of Georgia since 1950, and am now chairman of its committee on education. I am also first vice president of the States Rights Council of Georgia.

I want to thank Chairman Celler and Counsel Foley for their courtesies to me during these hearings.

On February 4, at the outset of the hearings, the chairman said: "I know how difficult it is to lay aside the concepts of past thinking on the subject of these civil rights and the standard of definition. I am aware how passionately certain convictions on this subject are held in the southern region of our country."

I am not here to quarrel. I am here to express opposition to H. R. —— and H. R. ——, and the numerous bills declaring, more or less, the same principles as are embodied in those bills. And, at the outset, I say to you that the South does passionately hold to a certain conviction—a conviction that the Constitution of the United States, as written and as construed over scores of years, is the supreme law of the land, and that that Constitution can only be amended as provided therein. It cannot constitutionally and legally be amended by "an enactment of the Supreme Court." I say to you, too, that I do not think that the southern region of our country stands alone in this fundamental conviction.

The chairman also said: "Certainly, the Supreme Court decision, which is the law of the land, spoke of 'deliberate speed.' That must be accepted as the law of the land and be binding as such on all of us. The old shibboleth (sic) of 'separate but equal' has been negated by the Supreme Court."

That old shibboleth was announced by the Supreme Court of the United States in *Plessy* v. *Ferguson* (163 U. S.), decided in 1896. It was repeatedly followed in latter cases (e. g. *Chesapeake & Ohio Ry. Co.* v. *Kentucky* (179 U. S. 388 (1900)); *Chiles* v. *Chesapeake & Ohio Ry. Co.* (218 U. S. 71 (1910)); *McCabe* v. *A. T. & S. F. Ry. Co.* (235 U. S. 151 (1914)). That old shibboleth was announced by these stalwarts of the law: Justices Brown, Freid, Gray, Shiras, White, Peckham, and Chief Justice Fuller.

It was based, to a large extent on *Roberts* v. *City of Boston* (5 Cushing 198), a decision of the Supreme Judicial Court of Massachusetts.

Over a period of decades the old shibboleth was confirmed and ratified in the three cases just cited by these Justices of the Supreme Court of the United States: McKenna, Holmes, Day, Moody, Lurton, Hughes, Joseph R. Lamar, McReynolds.

In *Gong Lum* v. *Rice* (275 U. S. 78), it was followed by Chief Justice William Howard Taft with these Justices concurring: Holmes, Van DeVanter, Brandeis, Butler, Sanford, and Stone. In the opinion, the Court also cited approvingly *Cumming* v. *Richmond County Board of Education* for the proposition: "The right and power of the State to regulate the method of providing for the education of its youth at public expense is clear."

In the light of that judicial history, which under every concept of constitutional government, cause that old shibboleth to become a part of the law of the land, why was it not accepted as the law of the land? Why did those who opposed the separate but equal doctrine seek to have the Supreme Court of today reverse the Supreme Court of many yesterdays? So far as the applicable provisions thereof are concerned (14th amendment) the Constitution of the United States of 1954 was in exactly the same language as that of 1896. Why is it that the decisions of May 17, 1954, "must be accepted as the law of the land, binding as such on all of us," when *Plessy* v. *Ferguson*, and the decisions following it, were not so accepted?

And I respectfully call attention to another recent bit of Federal judicial history.

In 1935 in the case of *Grovey* v. *Townsend* (295 U. S. 45), the Supreme Court of the United States held that the 14th amendment was not violated by the customs and laws of the State of Texas providing for so-called white primaries. The opinion in that case was written by Justice Roberts. It was concurred in by Chief Justice Hughes, and Justices Van Devanter, McReynolds, Brandeis, Sutherland, Butler, Stone, and Cardozo, a unanimous decision.

In 1944, without a syllable of the 14th amendment having been altered, without a syllable of the statutes of Texas having been changed, the Supreme Court of the United States, in *Smith* v. *Allwright* (321 U. S. 649) took back its ruling

in *Grovey* v. *Townsend*, and held that the 14th amendment was violated by these Texas statutes.

The latter decision was written by Justice Reed, and concurred in by Justices Black, Frankfurter, Douglas, Murphy, Jackson, Rutledge, and Chief Justice Stone; Justice Roberts dissenting.

The Constitution was the same, the laws of Texas were the same, only the personnel of the Court had changed.

I am aware of the fact that the asserted reason for reexamining *Grovey* v. *Townsend* was the decision of the Supreme Court of the United States in *United States* v *Classic* (313 U S. 299 (1941)), a decision of the minority of the Court, only four Justices concurring therein. But, regardless of the reason for the reversal of *Grovey* v. *Townsend*, it was reversed Those who did not approve the decision in *Grovey* v *Townsend*, did not accept it as the law of the land, but attacked it so vigorously that it is no longer the law of the land.

The chairman also said: "We in Congress must provide the leadership in this great change"; and the Attorney General, on the same day, said: "The need for more knowledge and greater understanding of these complex problems is manifest "

In the light of "this great change," arising without change in the written Constitution, in the light of both of these statements, is it amiss that we of the South, we of Georgia ask you, with all respect, regardless of political considerations, to consider the viewpoint of the South—of that section of our Nation extending from Virginia to Texas—of the people living in that section.

We are not race baiters We are not Negro haters. On the contrary, we know that the good Negroes of the South are being used as pawns in a political game We do believe that the Constitution of the United States was a compact between the States, to be obeyed, if this Government is to survive, but not to be amended except as provided by its specific language.

For you to understand our position, and thus intelligently to assume the leadership you say is yours, I ask you to go back in your mind's eye almost 100 years, and consider the state of the Nation as it then was.

On the eve of the War Between the States, a Senator from my native State of Louisiana delivered his farewell address to the Senate of the United States.

What had preceded that speech during the years which had preceded it?

The first settlement of English-speaking people on these shores was at Jamestown, Va , in 1607—colonists proceeded to settle from Massachusetts on the north, through Georgia on the south. Strange as it may seem to us today, slavery was prevalent—human slavery. People, human beings, captured on African shores, were brought by slave traders to these shores. Those slave traders were for the most part not southerners. Most of these people were sold into the South on account of its climate, and agriculture. Years passed—the numbers of these people increased. The War of the Revolution ensued. The Thirteen American Colonies became 13 American States when they combined to form the United States of America. In 1789, they adopted the Constitution of the United States. Four times in that document was the institution of slavery recognized as legal—most especially do I point out to you that provision of the Constitution (art. I, sec. 9) providing that the migration or importation of such persons as any of the states now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation not exceeding ten dollars for each person. To be sure that such remained the law, the Constitution provided in article V that no amendment should be made prior to 1808 which should in any manner affect the provision of article I, section 9, to which I have alluded.

By an act of Congress of April 20, 1818 (3 Stat 450), Congress enacted a statute prohibiting the importation of slaves (*The Garonne* (36 U. S. 73)). For a history of the legislation prohibiting the slave trade, see *U. S.* v. *Libby* (Fed. *Cas No* 15597).

As abhorrent as the idea is to us of today, in 1850, slavery was recognized as legal (*Strader* v. *Graham* (51 U. S. (10 Howard) 82, 93)).

But, by then, those in other sections of the country had been forbidden by law to engage in the slave trade and so the abolitionists began their clamor. The South then was a prosperous, growing section. With the clamor increasing and the agitation in Congress, the Dred Scott decision was between the States—Civil War seemed imminent So, because the Senator from Louisiana, and others of the South, thought that the compact known as the Constitution of the United States was being violated, he left the Senate, saying: "The fortunes of war may

be adverse to our arms; you may carry desolation into our peaceful land * * * you may do all this—and more, too, if more there be—but you can never subjugate us * * * you can never convert the free sons of the soil into vassals, paying tribute to your power * * * never, never." (I omit part of the quotation lest I be misunderstood or misinterpreted.)

What a prophet Senator Judah P. Benjamin was. All of the desolation and destruction he had imagined was wreaked upon the South. The State of Georgia especially felt the ravages of war in General Sherman's march to the sea. In 1865, the war ended with the surrender at Appomatox. President Lincoln was assassinated. During the reconstruction period, the 13th, 14th, and 15th amendments to the Constitution were adopted. The 14th was proposed to legislatures of the several States by the 39th Congress on June 16, 1866. It was declared ratified July 21, 1868, by the legislatures of 30 of the 36 States. An interesting legal discussion could be had as to whether it ever was legally adopted. Suffice it to mention now that of the 30 States supposed to have ratified the amendment, New Jersey and Ohio subsequently passed resolutions withdrawing their consent to it. Kentucky, Delaware, and Maryland rejected it, and it was never ratified by either of those States. (See U. S. C. A., amendment 14, historical note, p. 3.)

It was of this period that Justice Robert H. Jackson, of New York, saw in *Collins* v. *Hardyman* (341 U. S. 651) an action to recover damages under title 8, United States Code, section E 47 (3) (now 42 U. S. C. E 1985 (a)): "This statutory provision has long been dormant. It was introduced into the Federal statutes by the act of April 20, 1871, entitled, 'An act to enforce the provisions of the 14th amendment to the Constitution of the United States, and for other purposes.' The act was among the last of the reconstruction legislation to be based on the 'conquered provision' theory which prevailed in Congress for a period following the Civil War. * * * The act, popularly known as the Ku Klux Act was passed by a partisan vote in a highly inflamed atmosphere. It was preceded by spirited debate which pointed out its grave character and susceptibility to abuse and its defects were soon realized when its execution brought about a severe reaction. (The background of this act, the nature of the debates which preceded its passage, and the reaction it produced are set forth in Bowers, the Tragic Era, 340–348)" (341 U. S. at pp. 656–657).

(It is this Ku Klux Act which is seemingly sought to be revivified in 201 of H. R. 2145 and to some extent in pt. IV of H. R. 1151.)

Justice Jackson proceeds: "The provision establishing criminal conspiracies in language indistinguishable from that used to describe civil conspiracies come to judgment in *United States* v. *Harris* (106 U. S. 629). It was held unconstitutional. This decision was in harmony with that of other important decisions during that period by a Court, every member of which had been appointed by President Lincoln, Grant, Hayes, Garfield, or Arthur—all indoctrinated in the cause which produced the 14th amendment, but convinced that it was not to be used to centralize power so as to upset the Federal system. While we have not been in agreement as to the interpretation and application of some of the post-Civil War legislation, the Court recently unanimously declared through the Chief Justice (Vinson): 'Since the decision of this Court in the *Civil Rights* cases (109 U. S. 3 (1883)), the principle has become firmly embedded in our constitutional law that the action inhibited by the 1st section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however, discriminatory or wrongful'" (341 U. S. 656–658).

In unmistakable language Justice Jackson of the State of New York on June 4, 1951, that "the 14th amendment protects the individual against State action, not against wrongs done by individuals."

The South was prostrate—but prostrated was used as a whipping boy by radicals for self-aggrandizement. Prostrated it was, but subjugated, it was not. There was no "Marshall plan" for us. We were left to pull ourselves up almost literally by our own bootstraps. And that we did. As we climbed back, *Plessy* v. *Ferguson* was decided in 1896. It was gradually and repeatedly reaffirmed. *Gong Lum* v. *Rice*, supra, was decided in 1927 by a unanimous court with an ex-President of the United States writing the opinion as Chief Justice, and saying in plain English: "The right and power of the State to regulate the method of providing for the education of its youth at public expense is clear."

He referred to the fact (p. 86 of 275 U. S.) that the establishment of separate schools for white and colored children had been held to be a valid exercise of the

legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced (E. Massachusetts in *Roberts* v *Boston*, supra (5 Cushing 198); *People* v. *Gallagher* (93 N. Y. 438); *People* v. *Cisco* (161 N. Y. 598); *Wysinger* v. *Crookshank* (82 Calif. 588); *Lehew* v. *Brummell* (103 Mo 546)).

As *Plessy* v. *Ferguson* was so confirmed, we thought that by every principle of right, every principle of law, every principle of constitutional government, it had become a part of the Constitution just as if written into it; that it was the right and power of each State in this Union to regulate the method of providing public education. As we climbed back, we established public-school systems, and built separate schools for the white and colored children. Funds for these purposes were mostly derived from white citizens (As late as 1956, in my county of Bibb, total ad valorem taxes paid by white citizens is $2,702,762 24 (95.16 percent); by colored citizens, $137,474 80 (4 84 percent). I have not been able to get figures on income and sales taxes) We obligated ourselves into the millions of dollars in reliance upon these established principles

And even as in the early 19th century, there was no complaint about slavery in the South as long as other people of sections could engage in slave trading, in building, owning, and operating ships to transport captured human beings from the coasts of Africa to the coasts of America to be sold in bondage to southern planters, so in the early 20th century, there was no complaint about "civil rights," no attempt to resurrect the unconstitutional laws of the Reconstruction era for adjudication in the present era, as long as the South was the Nation's economic problem No 1

Even in the New Deal era, and its succeeding years (1933–45) when Franklin Delano Roosevelt was President of the United States, there was no such agitation or effort.

But with the end of World War II, the South had emerged from its "conquered province" status. Learning of our natural resources, our climate permitting year-round work, indoors and out, our supply of ambitious intelligent people ready, able, and willing to work as their ancestors had, our freedom from alien concepts of government, industry began to move South

And as manufacturing began to supplant agriculture in the South, colored people of the South began to move North in such numbers as to create the balance of power in several nonsouthern States.

Then and then only did this civil-rights chaos and confusion start. Then and then only did established principles of constitutional law begin to crumble.

Are we supposed to supinely submit? I say "No"—that we have the right to use every constitutional, legal means to demonstrate to Congress and the courts that these decisions are constitutionally wrong.

We have just as much right to try to demonstrate to the Congress and the courts that *Brown* v *Board of Topeka* is wrong as other people had to try to demonstrate that *Plessy* v *Ferguson* was wrong

We have just as much right to try to demonstrate to you that you have no constitutional right to regulate primaries, as other people had to try to demonsrate that *Grovey* v. *Townsend* was wrong.

Each one of the scores of decisions, reversed and overruled by the Supreme Court of the United States in recent years, was just as much the law of the land as is *Brown* v *Topeka*.

I know, and you as trained, experienced lawyers know that when the Constitution is ravished, the offspring is a monster.

If one group can today set aside the 10th amendment, another can tomorrow set aside the first, and the fifth and all the others of the family comprising the Bill of Rights

I have been told that I as a member of a religious faith which is in the minority should be "on the side of" a racial group which is numerically in the minority. I am "on the side of" no one except those who believe in the Constitution of the United States as it was written and as it was amended in accordance with the provisions written as a part of it. I know that no minority group—whether it be racial, religious, sectional—is safe if the Constitution of the United States and decisions of the Supreme Court of the United States can be swept aside with the stroke of a pen.

And, so, the South fights in the proper forums, not as race baiters, race haters, but as adherents of constitutional government.

We realize as does the chairman "that we could not be an island unto ourselves." But what shall it profit this Nation if it save the world, and lose its own soul?

It is in that spirit that we are here now to consider the aspects of the bills

before the committee—as American lawyers, whether from Michigan or Mississippi, Virginia or Vermont, Colorado or Louisiana, New York or Georgia, let us strive to solve these problems with the Constitution of the United States as our guide. They are not to be solved by arraying class against class, section against section, party against party, race against race, creed against creed.

The first plank in the four-point program advocated by the administration is the operation of the bipartisan commission to investigate asserted violations of law in the field of civil rights. This is provided for in H. R. 1151 and H. R. 2145.

The "bipartisanship" seemingly is secured by the provision that of the commission of 6 (H. R. 1151) not more than 3 members shall at any one time be of the same political party. There is no geographical qualification. All 6 could be from 1 State, provided only that the political party test is applied. That does not, in the field of civil rights, seem to be a criterion of impartiality.

H. R. 2145 does not even have that requirement.

Sections 103 and 104 of H. R. 1151 constitute this commission as nothing more nor less than a national grand jury lacking only the power of indictment which will be supplied by "local" grand juries. We can foresee the flood of "contempt" and "perjury" indictments upon the authorization of just two members, subpenas may be issued directed to any person anywhere within the jurisdiction of the United States to appear anywhere within that jurisdiction to testify upon any matters deemed material by those two members. Who pays the expenses of such witnesses? Who pays for the time he may lose from his business or profession? Violating every concept of the grand jury system as known in the laws of English speaking countries for centuries, this supergrand jury could sit in Washington and investigate allegations, sworn or unsworn, that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures in the State of California, Louisiana, or Florida and require citizens of those far away States to come to Washington to testify regarding such unsworn allegations. And what are "unwarranted economic pressures" within the meaning of this bill? Who determines? And what provision of the Constitution of the United States authorizes the United States to take any action even if a citizen of the United States is being subjected to unwarranted economic pressure by reason of his religion or national origin. It is difficult to understand how any executive officer of this administration can sponsor such a provision. For less than 5 years ago, the beloved and respected gentleman who is now President was touring the South. He made a speech at New Orleans, La., October 13, 1952. He said:

"First, I deplore and will always resist Federal encroachment upon rights and affairs of the States. Second, I am gravely concerned over the threats to the States inherent in the growth of this power-hungry movement * * *" (New York Times, October 14, 1952, p. 26).

The next day he spoke at Houston, Tex. There he said:

"America was built by a robust and vigorous people. They operated first through the Original States and then through a balance of State and Federal powers. That balance was designed to keep as much of the Government as close to the people as possible. No nation of freemen was ever built from the top down. That system of government has served us well for 160 years. That system is one in which the States have a vital part. The preservation of local order, elbow room to produce and build, protection of our titles to land, the sacredness of our homes from intrusion, our right to get the best schooling for our children—we were secured these basic freedoms in the first instance by our State, our country, and our own hometown. These are primarily affairs for logical (sic—was "local" meant) administration. We must keep them so. Otherwise an all-powerful Washington bureaucracy will rob us one by one of the whole bundle of our liberties. We must preserve and protect this matchless system of States United" (New York Times, October 15, 1952, p. 24, column 14).

In the face of these declared principles—in the face of the President's fear that "an all-powerful Washington bureaucracy will rob us one by one of the whole bundle of our liberties," how can the chief law officer appointed by him advocate the creation of this super grand jury? No one who advocates such a commission can believe as the President does, that "we must preserve and protect this matchelss system of States United." This legislation does not preserve and protect that "matchless system." It destroys it, and tends to make vassal satraps of what have been sovereign States.

For the present, I omit any discussion of the second point in the program and pass over to the third and fourth:

(3) Enactment by the Congress of new laws to aid in the enforcement of voting rights;

(4) Amendment of the laws so as to permit the Federal Government to seek from the civil courts preventive relief in civil-rights cases.

We assume that point No. 3 is covered by the Attorney General's statement of April 10, 1956, in connection with H. R. 259 and H R. 627 of the 84th Congress (p. 14). There he stated that the most obvious defect in the present law (sec. 1971 of title 14) is that "It does not protect the voters in Federal elections from unlawful interference into their voting rights by private persons," in other words, 1971 applies only to those who act under color of law which means public officials, and the activities of private persons and organizations designed to disenfranchise voters in Federal or State elections on account of race and color are not covered by the present provisions of 1971.

And so we say that the statute fails to afford the voters full protection from discrimination which was contemplated by the Constitution, especially the 14th and 15th amendments.

In H. R. 1151, the suggested "defect" is doubtless to be remedied by the addition to the present text of title 42, United States Code, section 1971, the new subsections to read as follows:

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate * * * any other person for the purpose of interfering into the right of such other person to vote, or to vote as he may choose or for causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

(c) Whenever any person has engaged or is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved have exhaused any administrative or other remedies that may be provided by law.

We assume from the Attorney General's statement at the 1956 hearings that he is of the opinion that the new subsection (b) (p. 8 of H. R. 1151) is justified generally by the 14th and 15th amendments.

I respectfully submit that it is not.

"It has long been settled that the 14th amendment is directed only to State action and that the invasion by individuals of the rights of other individuals is not within its purview" (*United States* v. *Cruikshank*, 92 U. S. 542, 554; *United States* v *Harris*, 106 U. S 629; *Shelley* v. *Kraemer*, 334 U. S. 1; *Collins* v. *Handyman*, 341 U. S 651; see also *Moffett* v. *Commerce Trust Co.*, 187 F. (2d) 242 (2, 3))

In *United States* v *Reese et al.* (1875) (92 U. S. 214), the Supreme Court in an opinion writen by Chief Justice Waite of Ohio, Justices Miller, Field, Bradley, Swayne, Davis, and Strong concurring, Justices Clifford and Hunt dissenting held:

(*a*) Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress.

(*b*) The power of Congress to legislate at all upon the subject of voting at State elections rests upon the 15th amendment;

(*c*) That power can be exercised by providing a punishment only when the wrongful refusal is because of race, color, or previous condition of servitude;

(*d*) The third and fourth sections of the act of May 31, 1870, not being confined in their operation to unlawful discrimination on account of race, color, or previous condition of servitude are beyond the limits of the 15th amendment, and unauthorized.

Section (b) supra are likewise not so confined, if *United States* v. *Reese* is applied does not subsection (b) fall especially considering this language at the end of it: "election held solely or in part for the purpose of selecting or electing any such candidate"? See also *James* v. *Bowman* (190 U. S. 127).

It will be noted, too, that the proposed subsection (b) embraces "primary elections."

We assume that it is thought that *United States* v. *Classic* (313 U. S. 299 (1941)) is authority for the extension of Federal power to primaries.

We submit:

(*a*) Classic was decided by only four Justices, and those Justices held only that—

(*b*) Primaries might be regulated if they were an integral part of the procedure of choice or where in fact the primary effectively controls the choice.

The new subsection (e) of part IV (p. 8 of H. R. 1151) is the fourth point in the program:

Amendment of the laws so as to permit the Federal Government to seek from the civil courts preventive relief in civil rights cases.

The subsection would permit the Attorney General "to investigate a civil action or other proper proceeding, or preventive relief, including an application for * * * injunction, whenever a person has engaged or is about to engage in any act or practice" condemned by the earlier subsections.

The Attorney General says that such jurisdiction is warranted by the experience with the Sherman Act. I suggest to you that the proposed bill is in excess of the points in the Sherman Act (title 15, U. S. C., secs. 4, 25, and 26) and especially title 15, section 26.

The Supreme Court has repeatedly held that courts should not intervene unless the need for effective relief is clear, not remote or speculative. See, for example, *Eccles* v. *Peoples Bank* (333 U. S. 426).

What could be more speculative than to allege that a person is about to engage in certain acts or practices?

In the past few decades, we have been steering clear of government by injunction. A striking example is the Norris-LaGuardia Act (U. S. C., title 29, sec. 101) which provides:

"No court of the United States * * * shall have jurisdiction to issue any * * * injunction * * * in a case * * * growing out of labor disputes except in strict conformity to * * *"

If there should be enacted by the Congress any such unprecedented extension of the equitable powers of United States courts, it will mean 1 of 2 things:

(*a*) The citizens of the Southern States are to be singled out for harassment by Federal injunctions; or

(*b*) The theory of government by injunction will again be applied for the harassment of all citizens.

In the latter event, we can expect a multitude of contempt cases of which the recent Clinton case is only a sample.

I submit, too, that this subsection absolutely ignores, and thus, perhaps, supersedes rule 65 of the Federal Rules of Civil Procedure, pertaining to injunctions generally.

It is gratifying, at least, that the Attorney General as a basis for this bill (H. R. 1151) relies only on the Constitution of the United States. No longer, it seems, does the Department of Justice seek warrant for congressional legislation in the law of nations or the Charter of the United Nations.

Is that true with respect to H. R. 2145?

"The Congress is asked to declare the provisions of the act necessary not only for the purpose of insuring to all persons their constitutional rights, but also to promote universal respect for and observance of human rights and fundamental freedom for all, without distinction as to race or religion, in accordance with the *undertaking of the United States* under *the United Nations Charter*, and to further the national policy in that regard by security to all persons under the *jurisdiction* of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights." [Emphasis supplied.]

Evidently, this was inserted because of the Statement and Analysis by the Attorney General Concerning the Proposed Civil Rights Act of 1949, which appears at pages 157 et seq. of the hearings before Subcommittee No. 2 of the Judiciary Committee of July 13, 14, and 27, 1955 (serial No. 11, p. 157 et seq., especially p. 179).

Evidently section 2 (c) (iii) of this bill is based upon paragraph 3 of article 1 of chapter I of the Charter of the United Nations.

Tested only by the authority granted by the Constitution of the United States as heretofore construed by the Supreme Court of the United States, in many cases much of the bill would fall.

We have only to compare certain provisions of the bill with certain decisions of the Supreme Court to reach that conclusion.

See *Breedlove* v. *Suttles* (302 U. S. 277); *United States* v. *Cruikshank* (92 U. S. 542); *South Carolina* v. *United States* (199 U. S. 437); *Slaughter House* cases (16 Wallace 36); *United States* v. *Harris* (106 U. S. 629); *Civil Rights* cases (109 U. S. 3); *Collins* v. *Hardyman* (34 U. S. 651); *United States* v. *Reese et al.* (92 U S 214); *Virginia* v. *Rives* (100 U. S. 313); *James* v. *Bowman* (190 U. S. 127) (particularly applicable to sec. 211 of the bill); *Hodges* v. *United States* (203 U. S. 1); *Shelley* v. *Kraemer* (334 U. S. 1 (13)); *United States* v. *Williams* (341 U. S. 70; see also 341 U S 97).

In conclusion, let me point out that the 14th amendment, in the 1st sentence of clause 1, defines the term "citizens." It then provides that no State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States The constitutional provision is broader when it treats of deprivation of life, liberty, or property without due process. "No person shall be so deprived by any State * * * and no person within its jurisdiction" may be deprived by a State of the equal protection of the laws, but as to the abridgment of privileges and immunities, only citizens are protected by the Constitution of the United States.

The CHAIRMAN. Our next witness is Mr. John Patterson, attorney general of Alabama. We are very glad to hear from you.

TESTIMONY OF JOHN PATTERSON, ATTORNEY GENERAL OF ALABAMA

Mr. PATTERSON. If it please the committee, I want to thank the committee for permitting me to appear today in opposition to the so-called civil rights bills that are now pending before this committee.

I have not had an opportunity to study in detail all of the various bills that have been introduced, but I have studied fairly carefully H. R. 2145. In my discussion this afternoon I would like to confine my remarks to 2145. In my hasty examination of the other bills, I believe that 2145 is a similar measure and contains most of the provisions of the other bills that have been introduced.

Mr. KEATING. That may be so, but it goes very much further than H. R. 1151. Have you given your attention to the bill which was reported out of this committee last year, H. R. 1151?

Mr. PATTERSON. Yes. I believe that is also the bill that is being sponsored by the administration.

Mr. KEATING. That is right.

Mr. PATTERSON. I am familiar with that bill, also.

The attorney general in Alabama is the chief law enforcement officer of the State. The attorney general has under his authority 36 circuit solicitors or district attorneys who are engaged in their various districts prosecuting the criminal laws and criminal violations, and the attorney general has the authority to take over the prosecution of any criminal case and appear before grand juries.

It is a very powerful position in Alabama as set up in our constitution. I am primarily concerned here today with discussing the enforcement of the criminal laws of our State and the effects on such enforcement if these so-called civil rights bills are passed.

I have examined carefully the criminal laws in our Alabama Code and the rights that are granted to our citizens in the Alabama consti-

tution, and practically everything that is provided for in these so-called civil rights bills is already provided for in the statutory provisions or constitutional provisions of the Alabama law.

There is no relief granted an individual in these civil rights bills that cannot be obtained just as readily and just as easily and promptly under our Alabama statutes and our Alabama constitution.

I want to say at the outset here that we are enforcing the criminal laws of the State of Alabama. We have demonstrated in the past that we can enforce the laws and we intend to do so in the future. We do not need any Federal help to enforce our criminal laws nor do we need any Federal assistance in that respect.

Running hastily over H. R. 2145, in reading section 2 of H. R. 2145, and considering it in the light of all the other provisions, it appears to me that this measure along with many of the other bills that have been introduced are aimed at the South, and are possibly aimed at forcing integration upon the South against its will.

It is true that there is no specific mention made of that; but, when you view the remarks in the preamble of the bills together with the provisions pertaining to voting and other measures, it is obvious that the drafters of the bill were thinking about the South and some of the reports that possibly have been made here of conditions there.

Looking at this bill from a legal standpoint, I think it is vague, indefinite, and uncertain. Mr. Bloch, who just preceded me, commented about that. I think that the bills are unconstitutional for that reason. They would be unconstitutional because of their vagueness and indefiniteness and because no rules or standards are set out in the bills.

There are a number of words and phrases used in the act that the courts of this country have been trying for a long time to define. Of course, I think the bill was probably intentionally drawn in that manner in order to give the courts the opportunity to give the bills the widest possible interpretation to include everything from common traffic violations up to crimes of murder.

My experience has been with State legislation, and I do not believe that the Legislature of Alabama would ever pass a law giving a department head unlimited authority to carry out the provisions of an act in any way that he saw fit and hire as many personnel as he needed and give him an open-end appropriation.

I notice that the bill appropriates whatever money is necessary to carry out the provisions of the act and gives the Attorney General the authority to enlarge his staff as large as he thinks is necessary.

The provisions setting up the Commission on Civil Rights with the duties and authority to appraise the policies and practices of the State government and the Federal Government in regard to civil rights activities, the activities of private individuals and groups, with a view to determining what activities adversely affect civil rghts, can only be viewed in the light that they are going to subpena witnesses before it, they are going to pry into the affairs of individuals and pry into the affairs of families.

I just doubt the wisdom myself, of that type of legislation.

The Joint Congressional Committee on Civil Rights, as proposed in sections 121 and 124, apparently takes the place of a grand jury to investigate these matters and make recommendations. I think it

would appear to be nothing more than the grand juries that we are accustomed to in the various States.

Reading title 2, "provisions of which are to strengthen protection of the individual's rights to liberty, security, citizenship and its privileges," the bill of rights as set out in the Alabama constitution, and the various statutory provisions under title 14, Code of Alabama 1940, which are the criminal penalties, give to every citizen in our State adequate rights and adequate remedies to obtain all of the rights that these so-called civil rights bills intend to get for him.

I would like to point out also, that under the Alabama statutes a citizen has the right to register and to vote, if he meets the qualifications as set out in the Alabama statutes. If he is denied the right to register, he has the opportunity of review. He can file a suit in our circuit courts to review the action of the board of registrars.

He can appeal that decision to the Alabama Supreme Court. From there he can go by certiorari to the United States Supreme Court. He has an adequate and prompt remedy. I want to say that in the 2 years that I have been the attorney general of the State of Alabama there has not been a single complaint filed in my department by any citizen of the State of Alabama complaining that his civil rights in this respect have been denied him.

At the present time there are no complaints pending in my department. I know of no suits now pending in the State of Alabama where any citizen of that State is seeking an extraordinary writ against any board of registrars, with the possible exception of one situation months ago in Mobile, which was brought by a white citizen. So if anyone from my State is complaining that he has been denied his right to vote he has not taken the steps that are provided for him to take under the Alabama law as no complaints have been made to us and no suits are presently pending.

My assistant, Mr. Gallion, will go into detail with the committee in discussing our election, registration, and voting statutes in the State of Alabama.

The section of H. R. 2145 dealing with prohibition against discrimination or segregation in interstate transportation involves a subject that has been of great importance in the State of Alabama in recent months. We have found it necessary in our State to segregate passengers in interstate and intrastate commerce under the State police power in order to protect the lives of our citizens and their property.

You are familiar with the decision of the United States Supreme Court in the Montgomery bus segregation case, where the Supreme Court of the United States struck down the State laws requiring segregation on common carriers and the city ordinances of the city of Montgomery which required segregation on the common carriers of that city.

As a result, or in consequence of that decision, we had considerable violence, such as shootings and dynamitings, in the city of Montgomery. There has been no integration of the passengers on the public conveyances in that city even though the Supreme Court has struck down the municipal ordinances and State laws requiring segregation.

The CHAIRMAN. Have there been any municipal ordinances or statutes passed requiring segregation since that decision?

Mr. PATTERSON. No, sir.

The CHAIRMAN. Has there been almost, shall I say, complete integration of bus transportation since that decision?

Mr. PATTERSON. No, sir; there has not been.

The CHAIRMAN. There is still segregation?

Mr. PATTERSON. The buses have not been operating but a few days. For a short time they had to cancel all bus runs because of shootings and affrays. Then they started back a few days ago to having daylight runs, escorted by motorcycle policemen.

Just a few days ago they allowed the buses to make a few night runs.

The CHAIRMAN. That is with passengers mixed in all parts of the bus?

Mr. PATTERSON. It is my understanding that the passengers voluntarily segregated themselves.

The CHAIRMAN. They are voluntarily segregating themselves?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. What is meant by that?

Mr. PATTERSON. The Negro passengers are sitting in the back of the bus and the whites to the front.

The CHAIRMAN. That is the same as it was before?

Mr. PATTERSON. That is right.

The CHAIRMAN. Is that not segregation?

Mr. PATTERSON. They are not being made to do that in Montgomery that I know of. They are segregating there voluntarily.

Mr. ROGERS. I noticed an article recently where when a fellow did not get in the correct seat, the driver did not drive the bus any further and left it.

Mr. PATTERSON. I do not recall that article being about Alabama.

The CHAIRMAN. Does that mean you are going to have a sort of status quo as you had before the decision on the ground that it is a voluntary segregation?

Mr. PATTERSON. The point I am trying to make in reference to this matter is this: We have found it necessary to segregate the passengers in order to maintain law and order and to protect the lives of our citizens. This portion of H. R. 2145 makes it a crime for a police officer to segregate the passengers on interstate conveyances.

The CHAIRMAN. Let us go back to the situation that you are describing to see whether it is voluntary segregation.

Can there be voluntary—we emphasize voluntary—segregation where you have what you called before dynamiting and shooting? What is voluntary in that?

Mr. PATTERSON. I assure you, Mr. Celler, if anyone were caught dynamiting or shooting they would be prosecuted to the fullest extent of the law. I do not know who is doing it. Just a few days ago the city of Montgomery through its very fine police efforts solved some of the bombing cases and made some arrests.

Mr. KEATING. Do you call that enforced voluntariness—this plan of having them travel exactly the way they did before but not under law?

Mr. PATTERSON. Mr. Keating, I do not think that anyone is enforcing segregation on the buses of the city of Montgomery at this time.

Mr. KEATING. You think it is just something that was initiated by the people themselves?

Mr. PATTERSON. I think that they sit apart so as not to annoy one another.

The CHAIRMAN. What is the situation outside of Montgomery, generally, in the State of Alabama? Is there what you call voluntary segregation in other parts of the State?

Mr. PATTERSON. Segregation is being enforced in other parts of Alabama by the authorities.

The CHAIRMAN. In other words, in the other parts of Alabama there is segregation?

Mr. PATTERSON. That is right.

The CHAIRMAN. That is on the basis of municipal ordinances.

Mr. PATTERSON. State law and municipal statutes.

The CHAIRMAN. It is possible that cases will be brought up in the district courts to attack those statutes, but it will have to be done case by case, is that it?

Mr. PATTERSON. The decision of the United States Supreme Court in the Browder case applies only to the city of Montgomery.

The CHAIRMAN. That is correct. On the basis of that, the government of Alabama takes the position that in order to have integration there would have to be any number of cases started in each city or hamlet wherever there is a bus in the State of Alabama?

Mr. PATTERSON I think the reason that this decision of the Supreme Court applies to the city of Montgomery is because of the decree.

The CHAIRMAN. Do you not think, therefore, there is need for something like this last provision in my bill, H. R. 2145, which has direct reference to transportation which would possibly bring about the banishing of discrimination or segregation in transportation?

Mr. PATTERSON. I think the paramount duty of our State is to maintain law ond order and to protect the lives of its citizens and property. If it is necessary to separate or segregate the passengers in order to do that, then I think it has to be done. It is much easier to separate them before the fighting starts than after it starts.

Cerainly, it is my opinion from talking to various police officers over the State who are concerned with the maintainance of law and order that segregation is necessary. Without law and order and without protection for the citizens, then all of these rights that we talk about would mean nothing.

So I think the most important thing is the maintaining of law and order under the State's police power. The United States Supreme Court in the Browder case created a "no-man's land" as far as that particular field is concerned and makes it almost impossible for us to maintain law and order on our public conveyances.

The CHAIRMAN. Are there any other cases pending which attack in effect, the segregation ordinances of the cities outside of Montgomery in the State of Alabama?

Mr. PATTERSON. No, there are no other cases pending. There is one case filed a few days ago in Birmingham, Jefferson County, in the Federal district court attacking the constitutionality of the State law requiring segregation in terminals and depots.

Mr. ROGERS. What do you mean by "creating a no-man's land"?

Mr. PATTERSON. When the Supreme Court says it is unlawful and the Federal district court issues an injunction enjoining the city and State officials from segregating passengers on the buses in Mont-

gomery and you find it is necessary to segregate to protect the lives of the passengers, in the face of that injunction, it is an unworkable situation.

Mr. ROGERS. Has any application been made by the Federal court there for the FBI to be sent down to investigate whether or not there has been a violation of that injunction as was done in Clinton, Tenn.?

Mr. PATTERSON. I am not familiar with the activities of the FBI in Alabama. They do not divulge what they do down there. I do not know what they have done.

Mr. ROGERS. You have a decree where the officials of the city or the officials of the transportation system are required to do something. Who owns the transportation system?

Mr. PATTERSON. It is a corporation out of Chicago.

Mr. ROGERS. Is the injunction against the transportation system or the city officials or against both?

Mr. PATTERSON. It is against both.

Mr. ROGERS. If an individual does not live up to that injunction, are you construing it that it only applies to the city officials and to the corporation? If other people violate it, would they in your opinion be subject to contempt of court?

Mr. PATTERSON. I do not think the injunction requires that the passengers mix. I think they can sit where they please. If one chooses to sit in the back he can sit there if there is a seat there. The injunction is against the enforcement of it.

Mr. ROGERS. Yes; but there has been some violence because of the injunction as people shooting at the bus and things of that type.

Mr. PATTERSON. That is true.

Mr. ROGERS. Have either the city officials or the corporation appealed to the court and told them that they could not enforce that injunction as the school board did in Tennessee?

Mr. PATTERSON. No. We can enforce the law in the State of Alabama ourselves, and I think that that is the most desirable way of doing it. We certainly have demonstrated that. As I said, just a few days ago the city of Montgomery made several arrests in the bombing cases and shooting cases.

I understand prosecutions are coming forthwith. It is certainly more desirable that the State enforce its own criminal laws. I am sure that Mr. Hoover would be the first to say that. I am sure that any of the southern United States attorneys would tell you, if called here to testify, that they certainly would not want the responsibility that this act attempts to place on them. It is fundamental in our system, that we have local self-government.

I want to make it clear to this committee that we are capable of enforcing our own criminal laws. We have been doing it in the past and we want to continue to do so. We do not want the FBI down there enforcing our criminal laws.

Mr. ROGERS. You think to date in the State of Alabama they have enforced the criminal laws in that regard?

Mr. PATTERSON. Yes, sir; and I say that very emphatically.

The CHAIRMAN. In order to get the correct procedure here and to work out details of our hearings. I wish to announce that we will adjourn this meeting at 4:15. Will you be able to have your testimony completed and that of your assistant by that time?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. The purpose of the Chair is to adjourn these hearings until next week when we will have hearings on Wednesday and Thursday.

Mr. KEATING. Mr. Chairman, the committee has voted to hold 4 days of hearings and close tonight.

The CHAIRMAN. That is correct. But it is impossible to do that. The gentleman was present with me in the Speaker's room when it was strongly suggested that the hearings be prolonged to hear all those important personages who are very anxious to be heard.

It is not my purpose to forestall any member, and particularly members who hold important positions in the various States, from appearing and testifying. I do not want to prolong these hearings unduly. I am not going to permit any filibustering of witnesses. I want to get this legislation out as expeditiously as possible. On the other hand, I want a just and fair hearing of all concerned.

Mr. KEATING. Then, does the chairman feel there should be some committee action on this?

The CHAIRMAN. The motion has been made to extend the hearings, and it is passed.

Mr. KEATING. I did not hear the motion.

The CHAIRMAN. I will make the motion myself that the hearings be held open.

Mr. KEATING. The Chair will put it to a vote.

The CHAIRMAN. The vote has been taken by the Democratic committee, and I will register a negative vote of the Republican members. Mr. Clarence Mitchell wants to be heard, and there are several others on the other side, and I am not going to forestall the hearing. I think it would be very unfair.

Mr. KEATING. I think we informed the people that there would be 4 days of hearings.

The CHAIRMAN. It has been impossible to forecast how long the hearings would be. I hope the gentleman does not persist in his objection, because it will be overruled.

I do not want to cut off any witnesses, because this is an important matter. I want to get action as quickly as possible, but in the interest of getting action as quickly as possible I do not want to force the sacrifice of rights of individuals who want to be heard.

Mr. KEATING. I do not either, but the chairman should realize that next week we will be faced with exactly the same thing with a request to go to the following week. If we do not bring this to a head at some time, we will be in the same position as the last time.

The CHAIRMAN. I do not think that will be the case. I will not allow it. I can assure you gentlemen, with all deliberate speed as the Supreme Court said

Mr. Forrester has not spoken yet; other members want to speak. I certainly am not going to prevent them from speaking. We must hold these hearings open. I am sure the gentleman knows that and realizes that. At 4:15 we will adjourn this hearing until Wednesday and Thursday of next week.

Mr. MITCHELL. Mr. Chairman, may I have the privilege of filing a statement before you adjourn, after the witness has finished, for the sake of including it in the record?

The CHAIRMAN. Yes; you have that privilege. Remember we will close at 4:15.

You may proceed.

Mr. PATTERSON. It is my understanding that witnesses possibly have appeared before this committee and will appear subsequent to myself, representing the NAACP, who will probably make certain remarks concerning the public officials and low-enforcement agencies of the State of Alabama. I believe I would be remiss if I did not make some comments with reference to that. As I said before, we are enforcing the criminal laws of the State of Alabama and we intend to do so in the future. I do not think that anyone can raise any criticism about our efforts.

At the present time there are no complaints pending in my department nor any suits in court by any citizens claiming that their civil rights have been violated. The NAACP has been enjoined by our State court from doing business in the State of Alabama on the basis that it has violated our State law.

Mr. ROGERS. In what respect?

Mr. PATTERSON. I think that in weighing the testimony of anyone you should determine who he is and what the record is. The NAACP has operated in the State of Alabama in violation of our laws. They have failed and refused to pay their legitimate taxes. They have urged other people to do likewise. They have been guilty of barratry. They have gone out and stirred up litigation and procured plaintiffs.

I speak not only of Alabama, but of Texas. I am familiar with their operations in Texas, having worked with the attorney general in Texas. They are under an injunction in Texas, also. They are now in contempt of our circuit court of Montgomery for refusal to bring their records and books into court.

So I think that we should judge anything they might say about Alabama in the light of the fact that they have been violating our State laws and are now refusing to obey and honor the decrees of our courts.

The CHAIRMAN. I know about the National Association for the Advancement of Colored People. I have supported it for a great many years. I want the record to show that as far as I am concerned that it is a law-abiding organization. There may be some within its roster of membership who are intemperate in their remarks and even in their actions, but in general, by and large, it has a very fine board of directors.

It has men who operate under the laws of the country. I wonder whether or not situations have so developed where, because of the excitement of the situation and the charged atmosphere, that charges are bandied back and forth which are unfair to the National Association for the Advancement of Colored People.

I want the record to show that, as far as I am concerned.

Mr. PATTERSON. I think when a corporation sets itself above the law and above the courts and refuses to obey court decrees it is something that we should all be very much concerned about. I am sure that the United States Attorney General, in his efforts to enforce the antitrust laws and the internal revenue laws, fought for years to get the right to inspect corporate books.

Any corporation doing business in any State is required to make a full disclosure of its activities and obey the courts of the State where it is doing business.

The CHAIRMAN. I want to read from the following:

From the beginning, the task of the National Association for the Advancement of Colored People has been to wipe out racial discrimination and segregation. It has worked always in a legal manner through the courts and according to Federal and State laws and the United States Constitution.

It has also sought the enactment of civil-rights laws under the development of favorable climate and opinion. The association's record plainly shows that it has won many battles in the long struggle for first-class citizenship for the Negro American These successes have aroused the anger of many of those who do not agree with the principals enunciated by the NAACP.

Therefore, it is natural to have these clashes of opinion, but I think by and large men like Walter White, who was formerly executive director of the association, now Mr. Roy Wilkins, and others of their type, are men who want to abide by their law. It may be that some of their supporters have gone a bit far, but by and large, I think it would be unfair to cast those aspersions upon that well-recognized organization.

Mr. PATTERSON. In Alabama the corporation refused to register under our domestication statutes, and refused to designate an agent for services of process in the State. Those things are fundamental for a foreign corporation doing business in any State in the United States.

Mr. KEATING. Does that apply to a membership corporation as well as a business corporation?

Mr. PATTERSON. Yes, sir. It applies to all corporations. If an agent or officer or employee of the NAACP injured somebody in Alabama, unless you had an agent for service process designated in Alabama, you would probably have to go to New York State from Alabama to file suit against the NAACP. I do not think those laws are unreasonable.

The CHAIRMAN. I want to recall for the record some of the distinguished Americans who have associated themselves actively with the National Association for the Advancement of Colored People. Jane Adams, Samuel Bowes, publisher of the Springfield, Mass., Republican, Prof. John Dewey, William Lloyd Garrison, Boston abolitionist long since gone, the former publisher of the New York Evening Post, William Dean Howell, Bishop Alexander, et cetera, and many others whom I could name. Many honored names in all levels of the American life.

I could put in editorials from many papers all over the land. In my own city of New York, Mayor Robert Wagner has proclaimed an annual NAACP week as have numerous other American citizens.

Mayor Wagner cited the NAACP's American organization working for American goals within the framework of the American Constitution. J. Edgar Hoover has spoken words of praise. The World Telegram and Sun has praised the organization. All the kindred papers of the Scripps-Howard system have praised it.

I could give you the names of many editors around the country.

Mr. PATTERSON. It is not my intention to cast any aspersions upon those people you named. The NAACP violated the statutory laws and the constitution of the State of Alabama and we cannot look to see who the people are before we proceed with prosecution. We have to prosecute the laws equally and fairly and make them apply to everybody.

The legal precedents that we used in the case against the NAACP was taken from a Virginia case and a Kansas case where the Ku Klux Klan was ousted for doing the same thing that the NAACP is doing in Alabama.

The CHAIRMAN. If they violated the law they must be brought to book.

Mr. PATTERSON. That is our intention.

The CHAIRMAN. The circumstances of that violation would be interesting if revealed. However, every organization is amenable to the law regardless of its station and the roster of its members. If you say they violated the law your duty is to proceed against them.

Mr. PATTERSON. It is my opinion that if these so-called civil rights bills are passed and the Attorney General of the United States proceeds to enforce them in the terms that they are written he will meet with failure. There will be considerable discord and unrest. We will have a reluctance on the part of State, municipal and county officials to want to serve in office if all of their actions are reviewed by the Attorney General of the United States and by the Federal district courts. I doubt the wisdom of giving the Attorney General of the United States and the district courts this tremendous supervisory power over our State and county officials.

From a review of these bills, it is my opinion that if they are passed they will reduce the States to mere counties in relation to the Federal Government. I think that every citizen in the United States should be certainly concerned about these bills. I speak for a large number of people in the State of Alabama who feel as I do and we are in bitter opposition to these bills and we feel that they are designed to undermine our system of government as we know it today and to reduce our States to mere counties or political subdivisions of the Federal Government.

We certainly can enforce our own criminal laws. We have done so in the past. We will do so in the future. We do not need Federal assistance to do it. If the Federal Government interferes I believe they will meet with failure.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Attorney General.

Now, we will hear from your assistant, Mr. McDonald Gallion who is the chief assistant attorney general of your State.

STATEMENT OF McDONALD GALLION, CHIEF ASSISTANT ATTORNEY GENERAL OF ALABAMA

Mr. GALLION. Mr. Petterson has touched on some of the phraseology of H. R. 2145. I do not have a copy of H. R. 1151 but insofar as they are similar in principal with that phraseology I would like any statements I make to apply to all bills along that line. The part I would particularly like to deal with is part 2 of H. R. 2145, which deals with the protection of the right to political participation.

The wording of section 594, which would be the amended wording of that, title 18 of the United States Code deals with intimidation and threats and coersion or attempts at intimidation or coersion with the idea in mind of preventing the interference with the right of persons to vote as they may choose, controlling their vote in any general,

special or primary elections and severe penalties are imposed thereon.

Virtually all—in fact all of, not virtually—those are covered in our own Criminal Code, title 17, section 32. We have in Alabama for registration purposes of voters, Boards of registrars that are set up in the 67 counties of the State. They are composed of three members appointed by the secretary of state and the State agriculture commission.

Mr. ROGERS. May I interrupt you there just a moment? We heard some testimony here the other day that in certain counties and areas they never appointed these registrars.

Mr. GALLION. I know of but one example of that, Mr. Rogers, and that was in Macon County where they could not get in view of the tenseness of the situation, a quorum to serve on the board of registrars. That has now been corrected. Registrations are being received in that county the same as in the other 66 counties of the State.

The CHAIRMAN. What is meant by a quorum?

Mr. GALLION. Two out of the three constitute a quorum.

The CHAIRMAN. Three election commissioners?

Mr. GALLION. There are three members of a board of registrars for each county.

The CHAIRMAN. Was the failure to get a quorum due to the fact that they had not been appointed?

Mr. GALLION. There was a resignation on the part of two members. There were two vacancies. I do not know whether one was a death. They had a difficult time for not a particularly long period of time in filling that board. So registration was stopped temporarily.

The CHAIRMAN. How long was it?

Mr. GALLION. I do not know the exact time. I think it is a relatively short time. But it has now been corrected and they are now receiving applications in similar fashion to the other 66 counties.

The CHAIRMAN. We were told that it was quite a long period of time. If it is a lack of quorum due to the failure to appoint, then the lack of quorum is a rather understatement. It is lack of appointment.

Mr. GALLION. It was certainly not a lack of failure to appoint. I do not believe it would be based on that premise. It was a lack of acceptance by any individual to serve. That has been corrected now, I reiterate.

Mr. ROGERS. Another statement that we heard here the other day was that they went down one place to see the registrar to register and he said the books were at home. When they go to the home of the officer and he would say "No, the books are not here. They are down at the office. Somebody has been kidding you. They were down there all the time." Do you know anything about that?

Mr. GALLION. Was that in Alabama?

Mr. ROGERS. Yes.

Mr. GALLION. The boards of registrars is charged by law and it is specifically set out in statute as to meeting times, dates, hours, and places. A penalty is provided if they do not carry out the law. I do not know—certainly none have been reported to the Attorney General's office—of any noncompliance with those statutes. If so they will be subject to prosecution under our State statutes.

Mr. ROGERS. You mean that the law of Alabama provides that at a certain place the registrars should meet and anybody who is eligible

to register can go to that place and register from 8 o'clock in the morning until 5 in the evening?

Mr. GALLION. I mean that, sir, if he has the proper qualifications.

Mr. ROGERS. But the complaint here was being made that regardless of qualifications he could not find a place to get his name on the book.

Mr. GALLION. You are speaking of something that I frankly did no know anything about. There may be some isolated instances like that, Mr. Rogers. I would like to point out to you that in the State of Alabama at the time of the last election we had something around 40,000 registering Negro voters. Was this a Negro you were referring to or a white man?

Mr. ROGERS. Negro.

Mr. GALLION. We had something around 40,000 registered voters at the time of the last election and in 1954 and since that time during the new periods of registration there has been quite an influx of applicants who have been duly registered. The tabulation has not been made since it is on a county basis with 67 counties and they are continually coming in.

From the best reports I have at the present time they have increased some 20,000 in the last 2 years.

Mr. ROGERS. Let me ask you about the Alabama law. Suppose I got a runaround like the man that testified here of the incident of going to the place of registration and was told the books are at the registrar's home and never could get anybody to register him, does the Alabama law provide that I could come to the solicitor of that county and complain and he would be authorized to go in and get an injunction to make this fellow perform his duty?

Mr. GALLION. It certainly does. Alabama is broken up into judicial circuits and the circuit solicitor is a State officer. He is charged with the duty and responsibility of enforcing the State laws.

Mr. ROGERS. If I went to him and said, "The registrar has given me a runaround," would it be the duty of the solicitor to then proceed by injunction to compel the board to sit according to the laws of the State if they were not performing their duties according to the laws?

Mr. GALLION. I do not think that would be the duty of the circuit solicitor there. It would be the duty of the circuit solicitor to prosecute for any penalties to be imposed on any members of the board of registrars under those circumstances. Any individual could mandamus the board of registrars. They are in the capacity of judicial officers. A mandamus proceeding could be brought against them to obtain the same relief you are speaking of.

Mr. ROGERS. As I understand, then, the Alabama law would require the individual to institute the suit and the solicitor is not authorized to do it.

Mr. GALLION. That would be my conception; yes, sir.

The CHAIRMAN. What do you know about this allegation which was part of the testimony we heard on February 5, methods by which Negroes of Alabama are discouraged from registering by the type of questions put to them: "How many Federal workers are in the Federal Government?" and "What was the 19th State admitted to the Union"?

Mr. GALLION. The State of Alabama in its application for registration of voters has a questionnaire and oath that has been prepared and prescribed by the Supreme Court of Alabama. The questions

thereon are very simple questions. I have one right here in my hand. Since you have brought it up, if the committee please I would like to introduce it in evidence for the record.

The CHAIRMAN. We would be glad to have it.

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, _____ do hereby apply to the Board of Registrars of _____ County, State of Alabama, to register as an elector under the Constitution and laws of the State of Alabama, and do herewith answers to the interrogatories propounded to me by said Board.

_____
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: _____.
2. Are you married or single: _____ (a) If married, give name, residence and place of birth of your husband or wife, as the case may be: _____
3 Give the names of the places, respectively, where you have lived during the last five years: and the name or names by which you have been known during the last five years: _____
4. If you are self-employed, state the nature of your business: _____
(a) if you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: _____
5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: _____
(a) When did you become a bona fide resident of _____ County: _____ (b) When did you become a bona fide resident of _____ Ward or precinct _____
6. If you intend to change your place of residence prior to the next general election, state the facts: _____
7. Have you previously applied for and been denied registration as a voter: _____ (a) If so, give the facts: _____
8. Has your name been previously stricken from the list of persons registered: _____.
9 Are you now or have you ever been a dope addict or an habitual drunkard: _____ (a) If you are or have been a dope addict or an habitual drunkard, explain as fully as you can: _____
10. Have you ever been legally declared insane: _____ (a) if so, give details: _____
11. Give a brief statement of the extent of your education and business experience: _____.
12 Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude: _____ (a) if so, give the facts: _____
13. Have you ever served in the Armed Forces of the United States Government: _____ (a) If so, state when and for approximately how long: _____.
14. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country: _____ (a) If so, state the facts: _____.
15. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: _____
16. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means: _____ (a) If so, state the facts: _____.
17. Will you bear arms for your country when called upon by it to do so: _____
(a) If you answer no, give reasons: _____
18. Do you believe in free elections and rule by the majority: _____
19. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: _____
20. Name some of the duties and obligations of citizenship: _____
(a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict: _____.

21. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you: _____.

OATH

STATE OF ALABAMA _____ COUNTY

Before me, _____, a registrar in and for said county and State, personally appeared _____, an applicant for registration as an elector, who being by me first duly sworn deposes and say: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information, and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the Government of the United States or of the State of Alabama by unlawful means.

_____

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

_____

Member of the Board of Registrars for _____ County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in and for said State and County, personally appeared _____,

(Full name of applicant)

an applicant for registration who, being by me, _____,

(Any member present may administer oath)

a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is _____, and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Office," I depose and state as follows:

1. I was previously registered in the following State and County in the years named _____

(If applicant has never been registered in Alabama or any other State, he should so indicate)

2. I have never been convicted of any offense disqualifying me from registering.

(Board should call applicant's attention to Section 182, Constitution, and Title 17, Section 15, Code of Alabama, 1940. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)

3. My present place of employment is _____

4. I know of nothing that would disqualify me from being registered at this time.

REMARKS

_____

_____

(Signed) _____

(Name of Applicant)

Sworn to and subscribed before me this _____ day of _____, 19____.

_____

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____, who executed the foregoing
(Name of Applicant)
application in the manner and form therein stated. The Board having further examined said applicant under oath, touching his qualifications under Section 181, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudges said applicant entitled to be registered and he was duly registered on this the _____ day of _____, 19 _____, in _____ precinct (or ward) in said county.

(Signed) _____
Chairman

(Signed) _____
Member

(Signed) _____
Member

(NOTE.—The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA _____ COUNTY

Before the County Board of Registrars in and for said State and County personally appeared _____, who being first duly sworn
(Name of Witness)
as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is _____, My occupation is _____
I reside at _____, My place of business or employment is at _____, The name of my employer is _____
I am a duly registered, qualified elector in _____ precinct (or ward) in _____ County in the State of Alabama. I have known the applicant _____ for _____ years (or
(Give Applicant's Name)
months). He is a bona fide resident at _____ and to my knowledge has resided thereat for the past _____ years (or months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

_____

_____

(Signed) _____

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19_____.

(Signed) _____
(Member of the Board)

NOTE.—This application blank, when duly executed, on the final preparation of the "lists" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 141, Code of Alabama, 1940.

I, so and so, do hereby apply to the board of registrars of such and such a county, State of Alabama, to register as an elector under the constitution and laws of the State of Alabama and do herewith submit answers to the interrogatories propounded to me by said board.

The applicant signs that. Here is all this questionnaire says: One: State your name, date and place of your birth and your present address. Two: Are you married or single? If married, give the

name, residence and place of birth of your husband or wife as the case may be.

At the inception you can see the applicant's name is desired, his age for purposes of determining whether he is of legal age to apply, his residence for purposes of residence qualification. Going on; five: Give the names of the places respectively, where you have lived during the last 5 years and the name or names by which you have been known for the last 5 years. I see nothing difficult about that at all. Clearly that is for the purpose of further ascertaining correct residence and correct name.

Self employed.

State the nature of your business.

It is just additional information because the board of registrars do like to have a proper address listing of the applicants.

If you claim that you are bona fide resident of the State of Alabama, give the date on which you claim to have become such a bona fide resident.

In Alabama, our constitutional requirements are that before a person can become qualified to vote in the State, he must have lived 2 years in the State, 1 year in the country and 6 months in the precinct. That qualification is typical of those throughout the other 47 States of the Union.

It does have in addition here, the bona fide residency in the ward precincts which is a natural requirement.

If you intend to change your place of residence prior to the next general election, state the facts. Has your name been previously stricken from the list of persons registered?

Of course, that is all important to a board of registrars.

Are you now, or have you ever been a dope addict or a habitual drunkard?

As far as physical qualifications are concerned, since we are at that stage of it, the time is running short so I will hurry, there are several questions directed here pointing toward possible disqualification.

I will touch on them briefly. A dope addict, habitual drunkard, if a person has ever been declared legally insane, has he ever been convicted of a felony, an offense involving moral turpitude and if so, state the facts. About all that is left is whether they have served in the Armed Forces of the United States Government and if so, for how long and were they honorably discharged and will you support the Constitution of the United States and the State of Alabama.

Do you believe in free elections and rule by the majority? Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama? Name some of the duties and obligations of citizenship. Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict?

That is about the sole extent of the questions. They are very simply worded. In the statutory requirements beyond this, there are a few other requirements. One is that you can read and write the English language.

The CHAIRMAN. But you say there are no questions that could possibly stem from those requirements which would involve the following question: "How many persons are on the United States

payroll," or as somebody testified, I believe, the question was asked, How many drops in an orange?

Mr. GALLION. I would like to know this: I will ask the Chair a question. Did that person state that it was reported to any official or brought to the attention of any State official for appropriate action?

The CHAIRMAN. As far as I know, no. This is just testimony that we heard.

Mr. GALLION. If an applicant appeared before our board of registrars and he were turned down on a reason such as you enumerated there, he has the right to appeal to our circuit court within 30 days for review and the trial there is de novo. If the decision is adverse he can appeal to the supreme court of our State and from there by writ of certiorari to the United States Supreme Court.

The CHAIRMAN. I would imagine it would be rather difficult for an individual who probably might be poor or unable to hire a large—I am not only speaking of colored but white people also—if they had such a question directed to, and I do not know whether they have, it would be very difficult for them to bring proceedings or they may be loath to bring proceedings for fear of some reprisal that might be taken.

Mr. GALLION. I would think that the situation would also be very rare, Mr. Chairman. There would be some considerations to what you say. I cannot help but say this before the committee: That such an instance in my opinion is a very isolated situation and a distortion of the overall working of our boards of registrars.

Mr. ROGERS. Do I understand the board of registrars, if a man answers all the questions of qualifications and can read and write, cannot deny him the right to be registered?

Mr. GALLION. The board will grant him his registration providing he has not disqualified for some of these various other things like I have named, like a conviction for a felony.

Mr. ROGERS. Let us assume that he meets all the qualifications of an elector in the State of Alabama and one of the requirements is that he read and write. Aside from that, is a registrar empowered to ask him any other questions other than those outlined there to determine whether or not he should be registered?

Mr. GALLION. There are some other questions. They would not go far afield from this, Mr. Rogers. There are some other questions in the code as I mentioned about particular crimes, and insanity. Some of those are covered. It would be nothing far afield from that general line of questioning.

Mr. ROGER. What I am tryingto get at, according to the questions that you ask—naturally I assume if he is insane or a convicted felon or habitual drunkard or drug addict and so forth he would be disqualified—but assume that he meets all the qualifications and can read and write. Does the registrar under the Alabama law have any right to ask him any other questions?

Mr. GALLION. Yes, he would have that right.

Mr. ROGERS. If he is qualified and he asked him a thousand questions about how high is the moon and things of that nature, or how many words in the Constitution, that has nothing to do with his qualifications as an elector.

The point I am trying to ascertain is whether or not once the man meets the qualifications set forth in that questionnaire, what discretion is invested in the registrar to register him or not register him?

Mr. GALLION. Any other questions would be improper to ask other than stemming from the very basic things set up here.

Mr. ROGERS. If he attempted to use any other questions to determine his qualifications other than set forth there, he would be beyond his jurisdiction. If he denied him the right to register——

Mr. GALLION. He could go into court any time within 30 days. That would be to the circuit court. As I say, the examples you mentioned are certainly isolated cases—very isolated cases—in my opinion. I want to point out again that Alabama registration in 1954 was approximately 40,000 During the last 2½ years or so, the best reports I have coming to me is that it is close to 60,000. It is between 40,000 and 60,000 now. They are being registered daily.

The time has about got me.

The CHAIRMAN. You can place any remarks in the record you wish.

Mr. GALLION. I would like to say this before I close and I will make it very brief, Mr. Chairman. I am in bitter opposition to this bill. I feel that the formation of this Commission with the activity of enforcement provided for by the Attorney General creates the equivalent of a Federal gestapo wherein they can come and look over the shoulders of boards of registrars in our local government plane.

I think it is quite an encroachment of the State police power. I believe we people in Alabama can enforce our laws and I believe we are doing it fairly at the present time. Any interference on the part of the Federal Government is quite to the detriment of the 48 States. The provisions that are set out here go down to general, special, primary elections and down to district, county, city, parish, township, and school districts.

I think those powers belong traditionally within the States and I believe they can best handle them. I feel very strongly that our laws provide adequate remedies. I want to go on record in bitter opposition to the passage of any such legislation.

The CHAIRMAN. Thank you very much.

We have our distinguished colleague from Georgia, Mr. John J. Flynt who wishes to make a statement.

STATEMENT OF HON. JOHN J. FLYNT, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. FLYNT. Mr. Chairman, I am John J. Flynt, Jr. Member of Congress from the Fourth District of Georgia. I wish to appear before the committee today and voice my opposition to H. R. 1151 and H. R. 2145. I oppose them because I think that they are aimed at the destruction of many of the basic principles which have caused our country to become one of the greatest nations, if not the greatest nation, in the entire history of civilization.

I think that it is bad because it places far more power in the Commission and in the newly created and established Division in the Department of Justice headed by an assistant attorney general, than should be placed in either such a commission or such a division.

I think that the test should be applied to this particular legislation which should be applied to all legislation and that is this: It is not what good men might do with, but what bad men could do with it. I do not think there is any more necessity for the creation of a special division in the Department of Justice headed by an assistant attorney general for the enforcement of violations of civil rights laws than there is for creating a special division headed by an assistant attorney general to prosecute those cases which involve the transportation in interstate commerce of stolen vehicles or cases which involve liquor violations.

I think that civil-rights violations should properly be taken care of wherever they exist but under existing law rather than setting up a special branch in the Department of Justice to handle one type of violation. They should be handled under the Criminal Division as they are at the present time.

I have the greatest respect, even affection and esteem, for the chairman and the ranking minority member of this committee before which I now appear. I have utmost confidence not only in your motives but also in your ability which is recognized far and wide.

Mr. KEATING. I am sure that is reciprocated, Mr. Flynt. Since you have come in Congress I have watched your operations, and I admire very much your position upon public matters. It just so happens that we have a difference on this particular legislation.

Mr. FLYNT. I want to emphasize that the fact that we may differ on this particular legislation in no way affects the high personal regard which I hold for the authors of both of these two bills.

The CHAIRMAN. Thank you very much.

Mr. FLYNT. But I do think this: I think nobody can successfully dispute the fact that this legislation is aimed at my section of the United States and my people who live in that section. Of course, I know the answer to that might be that it shall apply equally to every precinct in every county and parish in each of the 48 States.

I think that this legislation has been inspired by false reports which may have come to the distinguished authors of this legislation.

As a matter of fact, I think that maybe not at this particular session of Congress, but in recent years, the Attorney General himself, has appeared before this committee or a similar committee and said he had been told that people had been denied the right to vote because they could not answer questions such as "How many bibbles in a barrel of soar?"

If that has ever happened, and I question it very seriously, I think that those are indeed isolated instances, if, in fact, they ever took place anywhere at all. I do not think that an indictment should be leveled against the entire area of our Nation because of reports, rumors, and lies, many of which are maliciously inspired, that have been circulated and brought to the attention of this committee and of Members of the Congress about the area of the country in which I happen to live and from which I come to Congress to represent the people of my district.

I think that so much of this conflict which has developed—and unless checked will continue to develop—is because there is a gross misunderstanding of conditions and problems which exist in my area.

Before coming to Congress I served for nearly 8 years as a solicitor general of the superior courts of the Griffin judicial circuit, a four-county circuit, in which I was the chief prosecuting officer.

I know, and this is not wishful thinking on my part, that I gained and maintained the high regard of practically all citizens of those four counties in which I served as chief prosecuting attorney. I gained the regard of all the citizens without regard to their race, their religion, or any other factor. So far as I was concerned, they all looked alike to me when they came into court.

I did everything within my power to see that every right to which any citizen was entitled by virtue of being an American citizen was extended to him and that it was protected for him. I also sought to see to it that every individual, regardless of his race, his color, his religion, or his national origin received and in the court in which I served as chief prosecuting officer, in addition to the rights of an American citizen, every dignity to which he was entitled as a human being.

I have to make that the cornerstone of my life in public service and in private life, and I shall see to it as far as I am able that those rights and those dignities are accorded to citizens wherever they may live.

But I think that the method of trying to indict an entire population, to indict the citizens of all people who may happen to reside in the section of this country that we call the South, by this legislation or legislation of this character, is ill-considered and unwise and will have the exact opposite effect which I know that you distinguished gentlemen intend for it to have.

I think we have solved, and shall continue to solve, our problems as they come up. I think we have solved them up to this time in a remarkably fine fashion. Most of these problems can be best solved and worked out satisfactorily on a local basis and not by outsiders who neither know nor understand either the problems or their background and origin. I am proud of the genuine harmony which exists between the races in the State in which I live and in the district which I represent.

The CHAIRMAN. Thank you very much, Mr. Flynt. We appreciate your statement.

There are several extensions of remarks which will appear in the record at this point.

(The statement of Congressman Victor L. Anfuso follows:)

STATEMENT BY HON. VICTOR L. ANFUSO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman and members of the committee, first, may I commend you for your earnest and prompt consideration of civil-rights legislation this early in the session. This is very encouraging to all of us who are so vitally interested in the observance and preservation of civil rights in this country.

Second, I want to express my gratefulness to the committee for giving me this opportunity to present my views on the subject.

While most of the measures dealing with civil rights that have been referred to this committee for consideration are commendable, I desire to call to your attention my bill, H. R. 4496, which calls for the observance of civil rights in the United States. Specifically, my bill advocates the establishment of a civil-rights commission to study the practices and the enforcement of civil rights, it calls for a prohibition of the poll tax, protection against mob violence and lynching, and equality of opportunity in employment.

At the same time, I heartily support many of the proposals contained in other bills, such as setting up a civil-rights division in the Department of Justice, creating a joint congressional committee on civil rights, amending existing civil-rights statutes, providing additional penalties for violation of civil rights, giving the Federal courts concurrent jurisdiction with State courts to enforce

civil actions against offenders, providing greater Federal protection for voting rights, and similar other proposals

While we have made some progress in recent years in the direction of eliminating discrimination and racialism, we still have a long road to travel before we can attain true understanding, human brotherhood, and equality of opportunity. Among the most important basic principles handed to us by the founders of this great Republic is the heritage of freedom, the concept of equality of opportunity, the belief that the individual should be judged on the basis of ability and achievement. The flames of intolerance would have consumed this Nation long ago if these principles had not been made the core of the American creed

To abuse our civil liberties and to permit the practice of discrimination against some of our citizens, to relegate these Americans to a state of second-class citizenship in a democracy such as ours, is proving most embarrassing and injurious to our way of life, to our prestige of moral leadership of the free world, and to everything for which America stands. We cannot justify either in our own conscience or before the eyes of the world our practices of racial discrimination in the light of our moral and democratic principles.

Discrimination based upon a person's national origin, or the color of his skin, or his religious beliefs, cannot be reconciled with the American concepts of justice If we are earnest in maintaining the freedom of a great Nation such as ours, we must make use of all the human resources of the country; but if we deny to certain groups among us the opportunity to develop their skills, then it constitutes a contradiction to our principles We are actually hurting our country and its best interests

Unfortunately, there is no simple solution for wiping out prejudice. It is my view, however, that a primary step would be to remove the legal sanctions of discrimination As long as old racial laws remain or new legal barriers are imposed, racial tensions will continue As long as stereotyped ideas about certain minority groups are not modified, bigotry and intolerance will flourish.

In recent years, Communist propaganda has been exploiting every incidence of prejudice and every infringement of civil rights in the United States in order to spread hatred against us among the peoples of Asia and Africa and other parts of the world They tell many untruths and half-truths about mistreatment of minorities in this country, while the true facts are distorted to give a false impression of the extent of discrimination in this country We are thus forced to be on the defensive and always apologetic This hurts our prestige and injures our moral leadership

I believe the time is long overdue for the people of the United States to be on the alert for the defense of their civil rights and the observance of these rights through the adoption of effective legislation Equality of opportunity for every citizen of this country is essential to the welfare and progress of our Nation and our civilization It is our sacred duty to afford all American citizens the opportunity to participate in all phases of our national life and to serve this country with dignity and pride

The United States is comprised of people who come from all races, religious beliefs, and national origins All of them have made significant contributions toward the development of the United States as the greatest Nation on God's earth. All of them have helped shape the destiny of our Nation I am, therefore, strongly opposed to the setting up or maintenance of second-class citizenship for any group.

For these reasons, Mr. Chairman and members of the committee, I am in favor of the adoption of the necessary measures which call for the preservation and observance of civil rights in this country. I urge you to vote out such a bill so that we may have the opportunity to discuss it on the floor of the House in the very near future

(The statement of Earl W. Jimerson follows:)

STATEMENT BY EARL W. JIMERSON AND PATRICK E GORMAN, PRESIDENT AND SECRETARY-TREASURER, AMALGAMATED MEAT CUTTERS AND BUTCHER WORKMEN OF NORTH AMERICA (AFL–CIO)

The Amalgamated Meat Cutters and Butcher Workmen of North America, AFL–CIO, has a membership of more than 325,000 men and women of many races, religions, creeds, and national origins. They reside in every State of the Union, Alaska, and Canada. The AMCBW has more than 500 affiliated local unions. It and the locals have contracts with thousands of employers

in the meat, retail, poultry, egg, canning, leather, fish processing, and fur industries.

Since the AMCBW was first organized in 1896, members have sworn "to keep inviolate the traditions of the trade union movement, namely never to discriminate against a fellow worker because of creed, color, or nationality." This is part of the membership oath of our union The swearing to this is the very first action a man or woman takes as a member.

The oath, Mr. Chairman, is symbolic of our union's concern about bigotry. To us, racial and religious intolerance and discrimination are not only an abominable evil. They are also a meaningful practical danger to our union and to its goal of improving the welfare of the workers in its industries.

Throughout our history—as throughout the history of all labor organizations—attempts have been made to create bitter racial and religious tensions in order to sap the strength or break the union. Today is no exception. The White Citizens Councils, which attempt to incite white workers against their Negro fellow workers, are often led by men who are in the forefront of the drives to do harm to the living standards of both.

We mention this to show that organized bigotry is not a means of "defending a tradition and a way of life," as we are told, but often a cruel, inhuman means toward a very selfish and materialistic end. Intolerance and bigotry are used to drive down the wages and other economic gains not only of the group discriminated against, but almost equally of the group which has been incited to do and is doing the discriminating.

In our many industries we have found that the harmony which comes from the recognition of the equal worth and dignity of all men is beneficial to the individuals, their groups, the union, the industry and the community. An example of this is Seabrook Farm, a giant corporation farm and food-processing firm in New Jersey, which our union has had organized for over 15 years. Here, a potential tinderbox of hatreds once existed, but today 3 races and some 19 nationalities work harmoniously together. The meat-packing industry is another example. There, bigotry was in past decades incited for selfish ends, but that terrible page of history is irrevocably turned to the immense benefit of all.

In these instances the work against bigotry were largely nongovernmental actions. It was the work of the union, community leaders and sometimes management. Such activity is good and lasting. Many argue it accomplishes more than legislation. Perhaps so, but just as legislation and governmental actions have their limits, so has the activity of individuals and nongovernmental groups.

For example, organizations, including ours, can do nothing or very little to guarantee a man the right to vote, or to assure the protection of his person and property, or to guarantee that his race or religion will not deny him a job, or to assure he will not suffer the indignity of a Jim Crow school, bus, or train. That requires governmental action.

Because we recognize the need for both approaches, we appeal to this committee to further the cause of human right and dignity by approving legislation, which will permit the Federal Government to play its rightful and necessary role in civil rights. The AMCBW strongly urges that this committee speedily approve the President's recommendations contained in H. R. 1151 by Mr. Keating.

We believe—as other groups have stated they believe—that the President's proposals are a basic minimum. They are good as far as they go, but they, unfortunately, do not do enough.

We believe the Celler bill, H. R. 2145, will meet a much larger need in the civil rights field. We urge this subcommittee to consider, at its earliest opportunity, the additional protections provided by the Celler bill.

Thank you, Mr. Chairman and gentlemen of the committee.

The CHAIRMAN. We will insert in the record at this point the statement of Tyre Taylor, general counsel of the Southern States Industrial Council, a telegram from Michael J. Quill of the Transport Workers, and a telegram from Thomas Burke, chairman of the Anti-Discrimination Committee of the New York Hotel Trades Council, AFL–CIO.

(The documents are as follows:)

STATEMENT BY TYRE TAYLOR, GENERAL COUNSEL SOUTHERN STATES INDUSTRIAL COUNCIL

I appear on behalf of the Southern States Industrial Council, the headquarters of which are in the Stahlman Building in Nashville, Tenn. My address is 1010 Vermont Avenue here in Washington.

The council was established in 1933. Its membership is comprised of industrial and business concerns in the 16 Southern States from Maryland to Texas, including West Virginia, Missouri, and Oklahoma. This membership includes all lines of manufacturing and processing, mining, transportation, and related industries and accounts for very substantial employment throughout the Region.

Proposals embodied in bills now pending before this committee include:

1. The establishment of a Civil Rights Commission
2. The creation of a Civil Rights Division in the Department of Justice
3. A proposal to give additional Federal protection to the right to vote and to provide civil remedies in the Department of Justice for its enforcement.
4. The addition of civil remedies in the Department of Justice.

As we understand it, all the foregoing are supported by the Eisenhower administration

Then there is a fifth proposal which, as we understand it, does not have Administration support, namely the establishment of a Fair Employment Practices Commission.

I should like to comment briefly on each of these proposals except the last. For while H R 435, for example, expressly declares that "the right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States," it was referred to the Committee on Education and Labor.

I

In the first place, the Executive already has the power, of course, to appoint a Civil Rights Commission President Truman did in fact appoint such a Commission The reason why the administration wants a Commission created by Congress has been explained by Mr Brownell as follows:

"For a study such as that proposed by the President, the authority to hold public hearings, to subpena witnesses to take testimony under oath and to request necessary data from executive departments and agencies is obviously essential. No agency in the executive branch of the Government has the legal authority to exercise such powers in a study of matters relating to civil rights"

So, what you are asked to do is create a Federal commission with full subpena and very wide investigatory powers Concerning the latter, Mr. Brownell has said:

"It [the Commission] will study and collect information concerning economic, social, and legal developments constituting a denial of equal protection of the laws It will appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Federal Constitution"

That would seem to be about as broad a delegation of authority as even the NAACP could want Under it, the Commission could require persons to appear before it and produce records in Washington or any other place the Commission might choose to hold hearings If past experience is to serve as a guide, most of the voluntary witnesses would be representatives of the NAACP, the American Civil Liberties Union, Americans for Democratic Action, and similar leftwing organizations And as a minority of this committee has pointed out:

> It is a well-known fact that more unreasonable complaints are made in the field of civil rights than in any other field A study by Tom Clark (then Attorney General), shows that in 1940, 8,000 civil-rights complaints were received, with prosecutions recommended in 12 cases, including Hatch Act violations In 1942, 8,612 complaints were received, with 76 prosecutions. In 1944, 20,000 complaints were received and 64 prosecutions undertaken, but it is not known how many were convicted

There is no indication as to what this Commission will cost the taxpayers. It is to be provided with a paid staff and the Commissioners themselves are to be paid $50 a day

So much for the proposed Commission. It would appear to be merely another Federal agency designed primarily for harassment and propaganda purposes. And it goes without saying that its primary interest and activities would be directed at the South

II

The provision for an additional Assistant Attorney General and the creation of a Civil Rights Division in the Department of Justice is a further invasion of a field which has been traditionally reserved to the States.

The approach here is the usual one by which bureaucracy expands and proliferates.

First, a Civil Rights Section of the Criminal Division is to be expanded into a Civil Rights Division. The Attorney General in his statement said this was necessary because the Justice Department has been obliged to engage in activity in the civil-rights field which is noncriminal in character. In support of this proposition, he cited the case of where the Department intervened "to prevent by injunction unlawful interference with the efforts of the school board at Hoxie, Ark., to eliminate racial discrimination in the school in conformity with the Supreme Court's decision."

Of course, if the United States Government is to become the legal guardian of all groups covered by this legislation and is to invade the States and localities and become the enforcer of all the Supreme Court decisions and decrees of recent years relating to integration, education, primary elections, and so on, then not only is an additional Assistant Attorney General necessary, but he will require the help of a veritable army of lawyers, investigators, hearing examiners, and clerical staff members. Mr. Maslow, general counsel of the American Jewish Congress, said in 1955 in the hearing before this committee that such a division should have 50 laywers in it In view of the enormous scope of the duties to be assigned to it, this would seem to be a conservative estimate.

We hear, and you have heard, a great deal these days about the overworked Federal judiciary, the enormous backlog of cases, sometimes extending back for 3 years, and the urgent need for additional judges. All I can say is that if you provide that the Attorney General can, without exhausting State judicial and administrative remedies and with or without the consent of the complainant, go into the Federal courts on behalf of the private parties in interest, then no one can estimate how many additional lawyers and judges will be required at the taxpayers' expense.

III

A third proposal is that section 1971 of title 42 of the United States Code be amended by—

First, the addition of a section which will prevent anyone, whether acting under color of law or not, from threatening, intimidating or coercing an individual in his right to vote in any election, general, special, or primary, concerning candidates for Federal office.

Second, authorization to the Attorney General to bring civil proceedings on behalf of the United States or any aggrieved person for preventive or other civil relief in any case covered by the statute.

Third, express provision that all State administrative and judicial remedies need not be first exhausted before resort to the Federal courts.

The purpose of these recommendations is crystal clear. It is to permit the Federal Government to enter into a field which heretofore has been reserved to private persons and to do this without complying with the usual requirement that State administrative and judicial remedies be exhausted before resort to the Federal courts.

How would this operate in practice? Let's take the Lucy case. In that instance, the complainant sought to enter the University of Alabama under a Federal court order obtained for her by the NAACP. All the expenses of this proceeding were borne by the State of Alabama and the NAACP. However, if this proposal had been law, we can imagine what would have happened. The NAACP would have been camping on the doorstep of the Department of Justice seeking direct intervention—at the expense of the taxpayers—just as was done in the Hoxie, Ark., school case. This would relieve the NAACP of a large part of its present expense and release funds for fomenting other cases in which the United States would be called upon to intervene. At the same time, the cost to the States for legal services and litigation would be greatly increased. In practice, this added cost would, of course, fall mainly on the States of the South at which this legislation is aimed. However, taxpayers everywhere should be interested in this effort, in effect, to subsidize the NAACP by making the Department of Justice its enforcement arm.

IV

The fourth proposal or recommendation is that the Attorney General be authorized to institute a civil action for redress or preventive relief whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action under the present provisions of the law. It is said that such an amendment would provide a procedure for the enforcement of civil rights which would be "far simpler, more flexible, more reasonable, and more effective than the criminal sanctions which are the only remedy now available."

Granted that the right to vote is one of the most important rights of any American, and that all that has been said about the virtues and advantages of a civil action is true, the question nevertheless remains as to the propriety of the Federal Government entering this field at all. Up to now the right to vote has been controlled by the States. If this historic principle is to be abandoned and additional broad powers to regulate elections are to be vested in the Federal Government, surely this should be accomplished by a constitutional amendment as the President recognized in his recommendation that 18-year-olds be given the vote. As the minority of this committee has observed, and we think rightly: " * * * Assuming, for the sake of argument, that the Supreme Court would overturn recognized constitutional doctrine and uphold (such an) expansion of Federal power, this is no reason for Congress in the first instance to fly in the face of the traditional and historical American policy of leaving the control of elections to the States and to the people."

In conclusion, may I raise a question that troubles me? I raised it when I appeared before the Senate Judiciary Committee last summer, and while I received letters from all over the United States, none of them gave a satisfactory answer. The question is this: Why all this unfriendly Federal preoccupation with the South? Or to put it another way. Why is it that some northerners—not all or even a majority, but some—seem to hate the South and to be determined to destroy its civilization and way of life?

I don't think this hostility is a hangover from the Civil War. After all, that war is almost a full century behind us Furthermore, the North won the Civil War and it is not in the American character to hold a grudge against the losers—as witness our generous and continuing aid programs for our late enemies, the Japs and the Germans.

Nor do I think this hostility can be attributed to the South's great industrial advances of recent years and the fact that, in many fields, it is a tough competitor of the North. I say this for two fairly obvious reasons: (1) Ordinary business competition does not normally engender animosities of the kind that are here involved; and (2) The South haters do not include many northern businessmen who are the ones who would feel this competition most keenly.

Could this animosity perhaps arise from some sort of inferiority complex, or possibly unconscious envy of the South's milder climate, and gentler, less pushing and less ruthless way of life? Or could it be a product of resentment of the South's conservatism, and a knowledge on the part of the northern so-called liberals that on this the South is eternally right, and will be proved so by history? I don't know

Thank you

NEW YORK, N. Y., *February 5, 1957.*

Hon EMANUEL CELLER
Chairman, House Judiciary Committee,
House Office Building, Washington, D. C

The Transport Workers Union of America, whose 150,000 members are employed in city passenger transportation and on the major railroads and airline carriers throughout the United States, wishes to go on record in support of legislation providing for a Civil Rights Division of the Department of Justice and a Commission on Civil Rights as incorporated in the bill (H. R. 627) adopted by the House last year. We regard such legislation as necessary and long overdue in helping safeguard the rights of all Americans

MICHAEL J QUILL,
International President.
MATTHEW GUINAN,
International Secretary-Treasurer.

NEW YORK, N. Y., *February 6, 1957.*

Chairman EMANUEL CELLER,
House Judiciary Subcommittee on Civil Rights,
House of Representatives, Washington, D. C.

Representing 35,000 hotel workers in New York City who are concerned with the protection of civil rights for minorities, we support the AFL–CIO program presented to you for laws prohibiting poll taxes, racial discrimination in employment, and lynching, and favor the establishment of a Civil Rights Division in the Department of Justice. Please include this message in minutes of hearings before your committee.

THOMAS S. BURKE,
Chairman, Antidiscrimination Committee,
New York Hotel Trades Council, AFL–CIO, New York, N. Y.

The CHAIRMAN. The meeting will now adjourn until Wednesday of next week at 10 o'clock.

(Whereupon, at 4:25 p. m., the committee recessed until Wednesday, February 13, 1957.)

CIVIL RIGHTS

WEDNESDAY, FEBRUARY 13, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to recess, at 10 a. m., in room 346, House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler, Rogers, and Keating.

Also present: William R. Foley, general counsel.

The CHAIRMAN. The committee will be in order.

The Chair wishes to make a statement. I am in receipt of a number of communications which I would like to read. One is from J. Lindsay Almond, Jr., attorney general of the State of Virginia, who wires:

Grateful for your consideration. Impossible for me to appear on the 19th or 20th.

Also a communication from my distinguished colleague Representative Williams of Mississippi:

I request permission to present testimony before your subcommittee in opposition to pending civil rights legislation. If possible I would like to be scheduled as late in the week as possible. It will be impossible for me to appear before Friday inasmuch as my young daughter is scheduled for a minor operation tomorrow. Hence request to appear late this week or early next.

The communication is dated February 11.

I have a communication from the Governor of Texas, the Honorable Price Daniel:

Due to legislative activity, regret cannot be in Washington on February 15. Please advise if there is any date during week of February 25 that I may be heard and no further delay will be asked. Please advise.

Also, a wire from Bruce Bennett, attorney general of the State of Arkansas, which reads as follows:

With reference to civil rights hearings now before your committee, respectfully request that the undersigned or a representative of his office be allowed to appear before your committee in opposition to these bills at some time convenient to the committee next week. It is my understanding that the controversy which occurred in Arkansas recently has been injected into these hearings, and Arkansas would like to be heard in connection therewith.

Also a communication from the distinguished Senator, Hon. Strom Thurmond:

I am writing to request permission to testify before your committee in hearings on H. R. 1151, the so called Keating civil rights bill, on February 26, 1957. If it is convenient to your committee, I would like to appear sometime in the afternoon.

A communication from Senator Talmadge of Georgia:

My calendar is such that it is impossible for me to appear before the week of February 25 I would appreciate your letting me know on what date I can be heard during that week.

The Chair wishes to announce that it was the purpose of the Chair to close the hearings last week. However, we were not able to complete hearing all the witnesses on the roster of witnesses so we adjourned the hearings until today and tomorrow, with the hope that tomorrow would be the last day of the hearings. In the light of these last requests which I have just read, I will set as the final days for hearings February 25 and 26. They will be absolutely the last days for any hearing.

The Chair has leaned over backward to accommodate those who have been expressing their desire to be heard. It will be impossible to hold hearings after that date. For that reason the Chair will now announce that counsel will proceed to have the hearings heretofore held printed, but the printed frames will be held open for the final witnesses whose communications I have just read. We will hear those witnesses and no more. They will be heard at their convenience during the days of February 25 and 26.

Midnight of February 26 will be deemed the last minute for either the insertion of material in the record or for any manner or kind of oral testimony from anyone no matter what his importance or lack of importance may be.

The Chair announces that on February 27 Subcommittee No. 5 will be called into session to consider the civil rights bills before us with a view to reporting or not reporting out a bill to the full Judiciary Committee. It is hoped that everyone will take heed of these admonitions offered this morning.

Under no circumstances will the hearings be prolonged after midnight February 26. Counsel, will you please instruct the gentlemen who have written to us to that effect.

Our first witness this morning will be our distinguished colleague from Georgia, the Honorable E. L. Forrester, who is not only a witness but is also a dedicated member of the Judiciary Committee.

STATEMENT OF HON. E. L. FORRESTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. FORRESTER. Thank you, Mr. Chairman.

Mr. Chairman, may I make a statement to the Chair and to my colleagues off the record?

The CHAIRMAN. Yes.

(Discussion off the record.)

Mr. FORRESTER. Mr. Chairman and members of the subcommittee, I want to congratulate this subcommittee on affording an opportunity for the opposition to be heard on this legislation. The reason why I want to do that is because despite the fact that I have only been a Member of Congress for three terms and beginning my fourth, I make the statement unequivocally that heretofore before on civil rights legislation pending before the House that this is the first time since I have been a Member of Congress that the opposition has been permitted to appear. As a matter of fact, while I was a member of Sub-

committee No. 2 in the 84th Congress, and legislation of this type was pending before us, I consistently contended that any hearings were wrong that were ex parte in their nature, and which did not afford an opportunity for the opposition to appear.

That has been ground into my very soul, Mr. Chairman, during over 30 years of law practice down in my native State of Georgia. As a matter of fact, one of the great lawyers of our State had framed and hanging over his desk these words which found lodgment in my soul, and which have been a part of my makeup for many years. That statement was to this effect: "He who judges without having heard both sides, though a decision be just, is himself unjust."

Now, Mr. Chairman, in the 84th Congress I say to you, and I say it without contradiction, that the only people who were permitted to appear and testify were people who belonged to organizations and groups, each and every one of them ardently dedicated to the passage of civil rights legislation. No State was invited to testify, no governor or attorney general was afforded the opportunity to testify. So I say it is well that for the first time an opportunity is being afforded to people who have contrary views, because it is in the spirit of our American way of life.

Now, Mr. Chairman, in the 84th Congress, and during the July 1955 hearings, a witness representing the NAACP was permitted to testify, and while he was testifying he made many specific charges against certain States. At that time I said that those States should be permitted to come in and to make answer, if answer they could, to those wild charges. I have the idea that my continuous protests had something to do with permission being granted at this time that those States would be allowed to come in and testify and to make answer to those specific charges.

I thought that was material, I thought that was just, because as I understand it, the only reason on earth for testimony is to demonstrate to Congress that there is a necessity and a sound reason for proposed legislation.

I hope that witness is here. The opportunity is afforded me now for the first time to make answer to that witness for charges made against my State, the State of Georgia.

I do not know whether the Chair has the reports of the hearings on civil rights in the month of July 1955, but if so, I wish you would follow me. I want to call the Chair's attention to a thing that that witness said, branding my State of Georgia.

The CHAIRMAN. What page are you reading from?

Mr. FORRESTER. Page 251. It so happened he branded the district that I have the honor to represent. Here is what the witness said:

* * * that is the case of William Henry Owens, a 16-year-old boy, who was driving his employer, an elderly white couple, from Kentucky to Florida and was severely beaten on June 14, 1955, by Georgia State Trooper J. W. Southwell near Ellaville, Ga. From all accounts, the State trooper merely stopped the car, ordered them to pull over to the side of the road and ordered the young driver out and began beating him, and when the Mattinglys, the employer, protested, he told them to keep quiet or they would be included also.

And afterward when Officer Southwell was cleared, he said that "beating a nigger is all in a day's work."

Mr. Chairman, I want to read you there some other things that that witness said. I was sitting in the subcommittee at that time.

These charges were serious. These charges were so cruel that it caused our colleague, the gentleman from North Dakota, Mr. Burdick, to say to that witness—

Has not your group, anyone in your group, made any examination to see what the purpose was in this attack? Why did they beat him?

Now let me read you what that witness said. He said:

This case is still under investigation. The boy has gone back to Kentucky. His employers went on to Florida, continuing the trip, and the boy was finally released, and somebody sent word back to Kentucky from which he came and secured bail money. The justice of the peace was alleged to have said, "He was lucky to get out for what he did," that he ought not to be released

I know this may sound a little incredible to you, sir, Congressman Burdick, but it is not necessary to have a reason for beating Negroes in a place like Georgia They are not estopped by any requirement or pro forma charge; it just happens if the officer does not feel well, or does not like the way you look, or how you walk down the street, he doesn't have to have a reason You do not necessarily have to have committed a crime.

This caused Mr. Burdick to say on page 254,

I would say this is one of the greatest indictments of our system that has ever come to my attention, because that is the sort of thing that cannot continue.

Mr. Chairman, during the course of that testimony that witness saw fit to reflect upon me as a member of that subcommittee. You will find that on page 254. He did it without any objections from the Chair, but Mr. Burdick said:

I understand this is a public hearing

The Chairman said "Yes", and Mr. Burdick said:

I would hate to have this information get into the hands of the Russians.

So, Mr. Chairman, I am glad that finally I have my day in court. I hope that witness is here this morning. I wonder if he wants to retract that charge. That is the only charge that was made against the sovereign State of Georgia, with one exception which I will comment on a little later.

First let me say to you that if that charge was well founded, then that would be to the everlasting shame of my State and the great district that I have the honor to represent and was permitted to serve in the capacity of a prosecuting attorney for 13 years in an inferior court which tried misdemeanors, and 14 years as a prosecutor of the circuit courts. I had hoped that would be retracted, but I am not surprised that it has not been retracted. The NAACP never retracts anything

Now, Mr. Chairman, I am going to show you what the truth is. Here is a certified copy of the accusations filed against William Henry Owens in the city court of Ellaville, Schley County, Ga. The city court of Ellaville in Schley County, Ga., is, was and continues to be a court of record and all of its records are available to the public. That accusation contains a plea of guilty entered and that accusation charged the defendant Owens in 1 count with 2 separate and distinct misdemeanor offenses.

One of the offenses was that he did operate an automobile on United States Highway No. 19, driving on the wrong side of the road, meeting traffic, and the other was that he did resist arrest by the highway patrolman of that State. The accusation and plea of guilty are dated June 17, 1955.

That is a complete refutation of the statement that no charge had been made against Owens. It is complete refutation of his charge that they were unable to ascertain the facts.

I think the Chair will be glad to know that also there is a certified copy of the sentence imposed in that case, and William Henry Owens from Kentucky was fined in the city court of Ellaville, Schley County, Ga., the sum of $33.

Now, Mr. Chairman, I want to tell you some facts about this.

The CHAIRMAN. That will be accepted for the record.

(The documents follows:)

PUBLIC WORKS SENTENCE—No. 153 Gammage Print Shop, Americus, Ga.

THE STATE

vs.

WILLIAM HENRY OWEN

~~INDICTMENT~~ / ACCUSATION } For A Misdemeanor

X VERDICT / PLEA } OF GUILTY

In City Court of

Ellaville May Term, 1955

WHEREUPON, It is ordered, considered and adjudged by the Court that the Defendant

William Henry Owen be confined to ~~hard~~ labor on the Public Works for and during the term of six Months, said Defendant may, however, be relieved of said imprisonment and at once discharged upon the payment of Thirty-three DOLLARS fine to include all Costs that have accrued in this case

Judgment signed this 17 day of June 1955, ~~1x~~

S/ Troy G.Morrow
Judge,City Court of Ellaville

GEORGIA, Schley County

I certify that the foregoing is a true extract from the Minutes of the CITY COURT OF ELLAVILLE Court of said County.

Witness my hand and seal of office, this 30th day of Jan., 1965

B. G. Manning
City Court Clerk.

ACCUSATION—BLANKET—CITY COURT

IN THE CITY COURT OF ELLAVILLE

GEORGIA, SCHLEY COUNTY

J.E.Devane, in the name and behalf of the citizens of Georgia, upon his oath, as appears by his affidavit made before S.W.Miles,

~~Notary Public and Ex-Officio~~ Justice of the Peace, on the 14 day of June Nineteen Hundred and fifty-five, charges and accuses WILLIAM HENRY OWEN

with the offense of a MISDEMEANOR, for that the said William Henry Owen

on the 14 day of June, in the year Nineteen Hundred and fifty-fiv in the County aforesaid, did then and there, unlawfully and with force and arms operate one 1951 Chevrolet, four miles South of Ellaville ,Schley Count , Georgia, on U.S.Highway 19, and Georgia No. 3, driving on wrong side of road meeting trafic, and resisting arrest by Patrolman

Contrary to the laws of said State, the good order, peace and dignity thereof

J.E.Devane
Prosecutor

S/ W.H.VanLandingham
Solicitor.

WITNESSES FOR THE STATE

J.M.Southwell

J.E.Devane

The Defendant _____

waive formal arraignment, copy of Bill of Accusation, list of witnesses, and agree to strike from a panel of _____ Jurors and plead _____ guilty.

This _____ day of _____

19____

_____

Defendant's Attorney.

_____

Solicitor.

No. 842

IN THE CITY COURT OF ELLAVILLE

May _____ Term, 19 55

THE STATE

VS.

William Henry Owen

ACCUSATION

A Misdemeanor

The Defendant William Henry Owen

_____

on being formally arraigned pleads _____ Guilty

This 17 day of June, 19 55

W.H.VanLandingham Solicitor.

_____

Defendant's Attorney

We the Jury find the Defendant _____

_____ guilty.

_____

_____

This _____ day of _____, 19____

_____

Foreman

W.H.VanLandingham

Solicitor.

J.E.DeVane

Prosecutor.

GEORGIA, SCHLEY COUNTY

I hereby certify the within anf foregoing to be a true copy of the Accusation in the case of The State Vs William Henry Owen as recorded in the Minutes of the CITY COURT OF ELLAVILLE, said County.

This the 30th. day of January, 1957.

S.A.Manning

Clerk of City Court of Ellaville, Ga.

Mr. FORRESTER. When he called Officer Southwell's name, he called the name of a man that I had been familiar with for years and years and years. I have tried many cases in which Mr. Southwell was the prosecutor. It just so happens that Mr. Southwell was a crippled man. Mr. Southwell had had his legs broken. Mr. Chairman, Mr. Southwell could not whip anybody. I am making that statement and I am saying that is right and I am asking them to deny it, and I hope they will deny it, because I want to join issue with them.

He said that the matter had not been investigated. Let us see if that is so. Mr. Chairman, I have some letters here which I want to put in the record.

The CHAIRMAN. You have that permission.

Mr. FORRESTER. I wrote to the FBI down in Atlanta, Ga., and I told the FBI about that testimony. I asked them:

Will you tell me if an officer down there in Georgia ever said that whipping a nigger was all in a day's work?

Did a justice of the peace down there say that Owens was lucky to get off with what he did?

I propounded those questions, Mr. Chairman. I did not hear from the FBI for some little time, but finally I got a letter from Hon. J. Edgar Hoover. He said that the FBI in Atlanta had sent my letter to him for answer, and then he said that he was sending it to Hon. Warren Olney for answer.

After a while I got a letter from Mr. Olney, and I want that to be made a part of the record.

The CHAIRMAN. That will be accepted.

Mr. FORRESTER. Here is what he said:

While we would like very much to be of service to you, it has long been established that the Department's investigative reports and files are not made available to persons or officials outside the Department. We may state, however, that an investigation was conducted upon allegations that the civil rights statute (18 U. S. C. 242) had been violated, and the file was closed in August 1955. The United States attorney for the middle district of Georgia, Mr. Frank O. Evans, concurred in the decision to close the file without prosecution.

So much for that wild unjustified charge. I do not charge him with deliberately making a statement that is untrue, but if it was not deliberately false, I do charge him with willful neglect, and I do say that he should have exhausted the avenues that were available to him for information and until he had done that, he should not have come before a subcommittee of this Congress and made those charges and ask that those charges be taken into consideration when the subcommittee was debating whether or not, after a lapse of 77 years, other civil rights statutes would be written on the books. That is in conformity with the NAACP pattern, however.

Now, Mr. Chairman, they made another statement. They said the Vigilantes were down in Georgia. That is on page 252. They said that one of those groups down in Georgia was the National Association for the Preservation of the Rights of the Majority of the White People of America.

Mr. Chairman, if they are down there, he knows more than I do. I have tried my best to find out. I have not found any organization like that. The only organization that I know of, Mr. Chairman, is the States Rights Council. The Chair heard the distinguished lawyer that I was permitted to present to this subcommittee, I believe, on Thursday of last week, the Hon. Charles Bloch. Mr. Bloch at that

time prefaced his remarks by saying to the Chair and our other colleagues that he was vice president, I believe, of the States Rights Council of Georgia.

Mr. Chairman, I want to make this statement. I am not a member of the States Rights Council. But I do want to say this. The members of the States Rights Council are men like Charley Bloch. Mr. Chairman, they are just the cream of the crop down there in Georgia. Do not understand me to say now that there is nobody else down in Georgia that is as good, because there are people who are certainly as good who are not members. But I do mean to say to you that if you saw that membership down in Georgia, you would be delighted to invite those people into your home. You would be glad to take those people into your confidence, and those people, Mr. Chairman, not only do not advocate violence, these people are not made that way, they do not believe in violence, but in addition they are unusually intelligent and know that violence would redound to their injury. You do not have anything to worry about on that score, except this. When men of that caliber and that type start organizing, a person with intelligence, Mr. Chairman, and the chairman on this subcommittee and the other distinguished lawyers who comprise this subcommittee are intelligent, will realize and appreciate that when people like that organize that maybe we had better try to take a little time out and find out what the true reason is for that organization. As a matter of fact, charges such as I have just discussed with you, and we having no opportunity to have our day in court, makes those organizations almost a necessity.

Mr. Chairman, as I said to you, I served approximately 30 years as a prosecuting attorney. I do not believe you ever saw a man who more enthusiastically endorses the principle that the court is the proper forum and to thence should any complainant resort than myself. You may find someone who has that principle in his heart more intelligently, but you will never find one that has that principle in his heart more sincerely than I do.

I don't know whether there are any other charges that have been brought against my State, but if there have been, Mr. Chairman, I want my day in court. I think I am entitled to it. If they can prove one charge of cruelty against my people, I will admit it for I long since learned years ago, Mr. Chairman, if you are guilty, you had better enter your plea before a merciful judge. I learned that long ago. But I am telling you my people are not guilty, and I am telling you that is why we ought to go slow with legislation of this kind.

I was impressed with the fact that when the Governor of Mississippi was permitted to testify, those foolish and absurd charges that Mississippi asked proposed registrants who wanted to register and vote "how many bubbles are in a bar of soap," and to explain mandamus, and how do you appeal a case, those reckless charges faded into thin air. Yes, I am glad that the Governor of Mississippi could come up here and defend the sovereign State of Mississippi, and brand those assertions as untrue, and he did.

Mr. Chairman, I think it might be interesting for you to know this. The Attorney General, Mr. Brownell, made a speech in Columbus, Ohio, I believe on May 5, 1956, where he charged that a Southern State was asking registrants to explain mandamus, how do you appeal

a case, and so forth. But they just never have pinpointed it and they never have proven it; and they cannot prove it. The Governnor says that they just do no do any such thing.

When the Attorney General made that speech, Mr. Chairman, I thought I had heard that charge before. I want to tell you where I had heard that charge before. That charge is in the magazine called the Nation, Wednesday, October 6, 1920, issue, almost 37 years ago. I want to tell you another startling thing, Mr. Chairman. The language used by Attorney General Brownell in 1956 was absolutely identical to the language that was used in the Nation magazine of 1920.

For the sake of the record, I want to tell you this I learned years ago never to make a charge that I could not prove. When I went into court to prosecute a man, and I told a jury I was going to prove a thing, I proved it. This is the evidence I have here. Here is the identical language used by the Attorney General on page 873 of the Nation magazine. I want to tell you who wrote that. That was a man by the name of Pickens who wrote this article, and, Mr. Chairman, Pickens had a record with the Un-American Activities Committee, and his affinity and enthusiasm for communism probably has not ever been excelled in the United States of America.

Mr. Chairman, those are the kinds of things that weigh heavily on my people. Those are the kinds of things, Mr. Chairman, that makes the yoke too heavy for us to bear.

Mr. ROGERS. Did the Attorney General give credit to Mr. Pickens for that statement?

Mr. FORRESTER. No, sir, he did not. Let me do credit to the Attorney General. I do not think the Attorney General knew where that came from, but if he would permit me, and with all sincerity, and with complete respect, I would suggest to the Attorney General that he have his speech writers be a little more careful and find out where charges come from before they are uttered as a matter of fact.

Mr. Chairman, the truth is, and I think I will tell you this, I am just about as well acquainted with these leftwing groups as any man in the United States. I learned the hard way, too. It just so happens that I am the man who tried the Rosa Lee Ingram case. I am the man whose name and picture was on every yellow sheet in every Communist magazine in the United States, Mr. Chairman. I say with all deference that I am the man that whipped the 75 lawyers that they flung on me from all over the United States, too. I had them all on me. But I gave the defendant every constitutional right. They took me up. They tried to reverse me, but they could not do it. Of course, once a year now those Communistic groups still use that case to raise money. They appeal all over the United States and money keeps flowing in. I think I might safely and conservatively say to you that the Ingram case was worth anywhere from 2 to 5 million dollars to the Communist Party. If they want to push me on that, I think I can show them where a tremendous amount of money went into it. I think I can tie them up. I think I can show how all of those boys in the course of 24 hours got on me and how in their condemnations they used identical language. Any man who has practiced law knows that when people use identical language, they have been coached. Really you ought to be investigating them, but so much for that, Mr. Chairman.

I want to say this additionally. The Chair knows that last year this legislation was before Subcommittee 5.

Mr. FOLEY. It was Subcommittee 2, Mr. Forrester.

Mr. FORRESTER. Yes. Thank you. I had an opportunity of being exposed to this legislation. If I do not know this legislation as well as any man in the United States Congress, it is simply because I am dumb, and I know the Chair will not hold that against me. I lived with it.

Let me say this, Mr. Chairman. The Chair is an exceedingly reasonable man, and I know that he will not object to me pointing out that it is significant that not a single southerner is a member of this subcommittee. As a matter of fact, I suppose that I am going to have to rely on either the gentleman from Ohio, Mr. McCulloch, or the gentleman from New Jersey, Mr. Rodino, to represent my people. I do not know which one I should ask to represent me, because I understand that Mr. McCulloch lives about 904 miles from my district and Mr. Rodino probably 905. So I guess that has to be somewhat of a tossup.

Let me point out, not to this subcommittee, but for the record—and we have the public press here—let me point out to the public press, because the press has been so silent, if this subcommittee had been one that the majority of the personnel were southerners, the agitators for the civil rights would demand that the chairman be expelled from Congress and the subcommittee dissolved. I am on firm foundation when I say that.

For we all know that those agitators have publicly and privately said against Hon. James Eastland, United States Senator from Mississippi, and will remember vividly that some of the so-called policymakers of the Democratic Party vigorously demanded that Senator Eastland be denied his chairmanship of the Senate Judiciary Committee. Labor Daily, February 1, 1957 issue, page 2, carried an article charging, "Eastland stacks civil rights unit" and proceeds to say that Senator Eastland put Senator Ervin, of North Carolina, and Senator Johnston of South Carolina on a subcommittee which I think has 7 members. So from that charge I understand probably there were 3 southerners on it. But they said that was mightly, mighty bad.

I think I should say to the chairman that God knows I am not suggesting any such foolishness as that. I have no patience with such suggestions coming from people who masquerade under the guise of tolerance but who actually, Mr. Chairman, are the most intolerant people that ever lived in this country, and who will wreck this country unless they cease resentment toward people that they do not agree with.

The composition of this subcommittee is a power granted under our rules. I think the Chair knows enough about me now to know that I work under rules. Yes; I do. They may cirticize the seniority system. The Chair does not claim it is perfect and I do not either. But I challenge anybody to find any better one. I am going to work with it, too.

Now, Mr. Chairman, I am going to say this to the Chair who is indulging me. I did not realize I was taking up the time that I have.

The CHAIRMAN. We do not invoke cloture against you.

Mr. FORRESTER. I know the Chair does not. The Chair has been splendid. But since the Chair does not, then I think I should respect the Chair and that I am going to try to do.

I well understand what it means to be under pressure. I know that. But a very few Members of Congress ever got here without having become professionals so far as withstanding pressure is concerned. I wonder if those boys realize the small effect that their pressure has. Sometimes if I get pressed too hard, I have a struggle trying to maintain my equilibrium and trying to think a thing through clearly, and do that which in a moment of reasonableness and so forth I would like to do. I want to say this to you as one American to Americans, and that is the way I am addressing this subcommittee: I have been with you now going on 7 years. I would say it down in Georgia just like I would say it down here, and I am directing it to you as Americans. We had a tremendous responsibility thrust upon us, Mr. Chairman, on January 30, 1957, when we stood up and voted on the floor of the House to give our President the right to make war. I am certain that there is not a member of this subcommittee that does not appreciate the gravity of that action, and knows in his heart that although we have peaceful inentions, we can very shortly be engaged in a war of all wars. God knows I knew that. I understood that.

So, Mr. Chairman, with that kind of preface, it was a little amazing to me to hear a witness during these present hearings explain why the King of Saudi Arabia was insulted in New York.

The CHAIRMAN. I want you to know that as one New Yorker I think that insult, if you call it such, was inane and improvident. I do not share it as a New Yorker.

Mr. FORRESTER. I do not think the chairman would even have to tell me that. If someone had asked me, "Do you think that Chairman Celler had anything to do with that," I would say positively not; no, sir.

But to my people, and I hope to the American people, there can be no explanation for insulting a guest within our borders. I do not share the belief at all that it is our duty to tell and compel other nations to run their busines in accordance with our beliefs, although that is a pastime for the tolerant boys. That is why we are here today, Mr. Chairman. These tolerant boys want to run us. They want to tell us what we can do and what we cannot do. It is not healthy for America. I understand—I do not know whether it is so or not—I happen to be a Baptist, if I went over to that King's country and I got up and preached a Baptist sermon that he might shoot me. If I have good sense, the thing for me to do is just not to preach a sermon. I would be a guest over there.

Another thing about that, now, that did this country a great disservice. These terrible charges about my people, Mr. Chairman, is doing this country a great disservice, too. Never has there been a time in all of this world when we ought to be together more. I deplore anything, Mr. Chairman, that is calculated to bring enmity and division among the people of the United States in such a serious and solemn hour as this. It is undoubtedly true that there are many people who are advocating this legislation, that the innermost thing in their hearts and in their desires is to bring a cleavage between the people of the United States.

You know the sad thing about it. I am afraid they are going to do it. God knows I do not want that to happen. There never has been a time in our national history that the chips have been more completely down and that unreserved loyalty, fidelity, and service should be demanded of every citizen in this country.

I have read there to some extent on page 3 of my statement. I want to ask the Chair to let this statement go in the record as it is written.

The CHAIRMAN. You shall have that permission.

Mr. FORRESTER. Then I am going to skip over because I do not want to unduly prolong my statement.

I do say, Mr. Chairman, that I wish we could have more extensive hearings than we have had. Please understand me now that I am not criticizing the Chair. I well understand that the President of the United States says that civil rights is the No. 1 legislation in this country. In all deference to him I dispute that, and God pity us if that is so.

The CHAIRMAN. I want to say to the gentleman from Georgia that no one who has requested an opportunity to be heard has been denied the opportunity.

Mr. FORRESTER. I say to the Chair again that the chairman has been most eminently fair. What I am saying now is this. So far as I am concerned, I think we have lots of matters that are far more important than this kind of legislation. At a matter of fact, Mr. Chairman—and I expect if it had been submitted to the chairman, the chairman would agree to it—I think it would have been healthy if this investigation and these hearings could have been carried on for some time and actually that our judges of the State supreme courts had been invited in, to come in and testify and give the benefit of their training and their legal acumen, and so forth. I throw that out because I believe in ethics. The Chair believes in ethics. Surely I think it would be unethical for a judge of a State supreme court to ask to be permitted to testify. On the other hand, I think that if an invitation were extended to them and we said to them we want you, we would like for you to come, we would like to talk to you, we want the benefit of your counsel, I think it would be of immense benefit to this Congress, and I think it would be a commendation to this Congress that would last for years.

I brought you an attorney up here from Georgia the other day. I brought you two, the attorney general, Mr. Cook, and Mr. Bloch. If you will pardon me, and I do not think it is State pride, the chief justice of the supreme court of my State was the head of the supreme court judges in the United States. I understand that problems like this are of serious concern to the judges of the supreme courts of the various States, because they are exceedingly fearful that States rights and the 10th amendment to the Constitution is absolutely gone when legislation of this kind is placed upon the books and becomes law.

I also understand that is just not an opinion that is shared by supreme court judges in the South, but I understand that judges in the North and East and West are exceedingly fearful of the effects of this legislation. I say again I don't think they would come without an invitation. If I were the judge of a State supreme court, I am frank to tell you that I would not ask you to permit me to testify,

for I doubt that would be in harmony with the high ethics which God knows every appellate court judge should have.

Now, Mr. Chairman, let us talk about this legislation a little bit from its practical effect standpoint. Let us talk a little bit about segregation.

Mr. ROGERS. I did not catch that.

Mr. FORRESTER. Segregation. I am talking about if it is not important to discuss this in dealing with this legislation. I am glad the gentleman let me clear that up.

Irrespective of the Supreme Court decision in *Brown* v. *Topeka*, has there ever been a time when courts and lawmaking parties failed to take into consideration historical facts? I do not care what you say, segregation is in the hearts, the minds, the souls of the large majority of the human race. You might as well understand that.

Let me say this to you, and I am not saying this in the spirit of criticism. Down where I live we are known as the Bible Belt, Mr. Chairman. Every now and then they throw off on us about that. They make fun of us about accepting the Bible completely except when a shooting war comes up. Then those boys do their best to get in bed with us for the duration of the war. I taught a Sunday school class down in my little home town 27 years. I accept the Bible. I think the Bible is true, Mr. Chairman, a race that was founded on segregation——

Mr. ROGERS. What race is that?

Mr. FORRESTER. A race that was founded on segregation was the Jewish faith. I think I have about 30 biblical quotations to sustain that point of view.

The CHAIRMAN. Was it voluntary or involuntary?

Mr. FORRESTER. I will ask the Chair this. With the injunctions of God, with God ordering it, I do not know whether it would be voluntary or involuntary I do know God made up free agents. But I do say this, Mr. Chairman, that the first thing that was said to Abraham was, "Get thee up out of thy country and from thy father's house and away from thy kindred and into a land I will show thee, and then I will make thy seed a blessing upon the face of the earth." There is the beginning of segregation, Mr. Chairman. God Almighty was telling Abraham "I am going to make your seed a blessing to the entire world when you do as I tell you." Mr. Chairman, he did, too.

The CHAIRMAN. Of course, we could spend hours in discussing the dialectics of that. I think there is another reason for that, quite different from what you expounded, but I will not go into that now. I am afraid we would be hours at it. The scholars have written times and times on that quotation alone. They all differed one with the other.

Mr. FORRESTER. The Chair has taken exception to one.

The CHAIRMAN. When two scholars get together, there are usually 3 opinions, not 2.

Mr. FORRESTER. I have about 30 quotations here in the Bible. God Almighty told Moses, and he also told Joshua that when he went into the land to kill all those people over there, men, women, and children, and so forth, and even to destroy the beasts of the field and the cattle and so forth, and that was done, and further He said:

You shall be a special people and a people above all of the other peoples of the world.

The CHAIRMAN. Of the then known world which was more or less the Egyptian world as far as Moses was concerned.

Mr. FORRESTER. Yes, and also the Ethiopian world. Let us say this. I told the Chair here one day about an amusing incident that occurred down in Georgia when a Methodist minister who was a legislator offered a bill in the house to appropriate $500 to paint a picture of a Methodist divine. A Baptist member amended immediately to appropriate $500 more for a certain Baptist divine. There was a Hebrew member of the Georgia Legislature, and he said, "Mr. Chairman, I offer an amendment to provide $25 for a cheap picture of Moses." [Laughter.] That broke it up.

If I read my Bible correctly, and we might as well stick our finger right into the heart of this thing, God Almighty told Abraham and on down through the old Bible, that Israel was given to them for a possession. Now, Mr. Chairman, you can say what you please, if God Almighty gave it to them, nobody will ever take it away from them. So I am highly interested in that. If God Almighty gave it to them, it was discrimination, but with discrimination based on the fact that God Almighty thought they would use it and use it for the benefit of mankind.

Mr. Chairman, if that is true, if God Almighty gave it to the Jewish faith, Tic Forrester will never deny their ownership. We get right down to this, now. If God Almighty gave it to Israel, then Israel is justified in being a nation now. If God Almighty did not give it to them, if it is all a hoax, if segregation is completely abolished, then the Jews lost Israel 2,500 years ago. In other words, that would put you in the awkward situation as if the Indians were to come and say, "I want you to get out of the United States now because we had it 150 years ago." That being the case, we would have to pick up our hat, walk out the door, shut the door, and not open our mouths, and give it to them.

This is a right interesting thing. It is interesting to me to see the argument down there about the Gaza strip.

Mr. Chairman, the Bible talks about the Gaza strip.

As I say, I believe in the Bible. I believe in it every step of the way. But Mr. Chairman, in no way on God's earth can we defend Israel's action there except on the basis of segregation. We might as well get down to brass tacks. There is just no other way to do it.

So far as this legislation is concerned, let me say this. I say this in all seriousness and all kindness. I do not know just who is the author of this Brownell version. I believe I heard the gentleman, Mr. Keating, claim ownership. Mr. Brownell when he came before us here on February 4 said he was the author. I will tell you what I do know, and this is something that I stand on, because Tic Forrester knows this. I know that during the entire year 1955, and in a portion of 1956, that the chairman came before our subcommittee and berated the administration and Republican Party for having no legislation and taking no interest whatsoever in those hearings.

The CHAIRMAN. That is correct.

Mr. FORRESTER. I know that they were repeatedly invited to come over, and I know they completely ignored each and every invitation. As I say, I am serious now. I am playing for keeps. I am making

the charge because it is so. I say that they never showed the slightest interest in any legislation of this kind until H. R. 627, which was the bill of which the chairman was the author, had been reported out of subcommittee No. 2 in 1956, and there I have put my finger on the very weakest spot of the legislation. This legislation was hastily drawn. This legislation was not considered. Any lawyer can take this legislation and drive a two-horse wagon through it, and I believe the Chair will agree.

I heard some things that were startling to me, Mr. Chairman. You know what I heard the Attorney General of the United States say? He said, "I am asking you for the power to become guardian of the people of the United States." That is virtually what he was saying. I never heard such power requested by one man in my life. But it is not unusual. I am not surprised that Attorney General Brownell asked for excessive power. Why am I not? The Chair is not either. I will tell you why the Chair is not. Because the Chair heard the same gentleman ask for the privilege of being able to determine by himself when wiretapping evidence would be admissible and when it would not be admissible. He did it. I fought him on it. Although he is an executive officer, he was asking for permission to be the Solomon to pass upon a judicial matter. It was a reckless request, and what he is doing now is reckless.

Mr. Chairman, did you notice that when they asked him, "What about the composition of this committee?" this committee that he is asking to set up, and was asked, "Don't you think there ought to be some rules, don't you think there ought to be some geographical limitations?" I know the Chair is going to understand what I say. Here was his answer:

> The President will appoint such good men that there will be no reason for writing limitations or placing exceptions in that law

In the name of God, have we come to that point? Has the time arrived in America that we will say we will not have any rules as to what constitutes a crime of murder? We will have judges on the bench that are so honest and so capable that they will get around to the conclusion that is proper in that case. Although they might eliminate malice on one occasion, and on another occasion say that malice is necessary. The Chair sees the utter absurdity of such a thing as that. But that is exactly what this bill would do. It would set up a commission. Sure, the President can appoint 6 and he has to appoint 6, and if they are perfect then they are above any man that ever lived. Even Moses sinned. Every last one of us has sinned. Every last one of the men that I ever knew has made mistakes. But the Attorney General said, "No, don't hedge them in, don't put any rules of conduct down there because they are just so nice and sweet that they will do the right thing." Well, we just do not legislate that way.

It is all right to have three men from each party, but does not the Chair think it would be well to say that those men will be selected from different sections of this country? Does not the Chair think that even my section might be given the privilege of having some representation there? I do not think anybody can argue against that. I am doing it credit. I am saying that if this bill had not been so hastily drawn, if it had not been to try to beat the Democrats to the punch,

that maybe this bill would have been ironed out, and it would not have been this monstrosity, and that is what it is. To tell you the truth, it is a bunch of garbage. That is the whole truth about it, that is just what this bill is. They said they want to investigate unwarranted economic pressures. Mr. Chairman, should we not have a definition of "unwarranted economic pressures?" Should we not do that in order not to do the Constitution great violence, and also should we not have it where they could not hold one thing was unwarranted today and another thing unwarranted tomorrow? Should we not set some guideposts? Are we going to abdicate?

Mr. Chairman, another thing that he said—and the Chair is an astute lawyer, I do not think that a fellow of my limited ability could have caught this and the Chair failed to catch it—they asked Mr. Brownell about his injunctions that he wanted and wanted to be able to bypass the State courts and so on. They asked him particularly about the ruling in the Clinton, Tenn., case. "I do not want to answer hypothetical questions. If that is a hypothetical question then I might as well destroy my lawbooks."

The CHAIRMAN. May I interrupt you just a moment? We have a very distinguished visitor who entered the room just now, Herr Kiesinger, who is chairman of the Committee on Foreign Affairs of the Bundestag, who is visiting this country. We welcome you here, and we would be very glad to have you sit up here for a few moments, if you wish, with your attaché. You might listen to some of the proceedings which are quite current in our Judiciary Committee. We are glad to have you.

Mr. FORRESTER. As I was saying, Mr. Chairman, he said that a question concerning a decree rendered by a district court in Tennessee was hypothetical. If that is a hypothetical question, then the thing for me to do is to destroy my lawbooks. That was no hypothetical question. That is an appalling fact down there. That was a decree issued by a court that is part of the United States Department of Justice. What we wanted to find out—and I want this subcommittee to find out, because every lawyer in the United States wants to know—have we become a country of injunction and contempt? Are only the parties enjoined subject to contempt, or am I subject to contempt, though I am a resident of Georgia and not Tennessee, on an order that I have never seen and I know nothing about?

Mr. Chairman, I say seriously, and I just say right now that the Chair and a lawyer like my colleague from Colorado, Mr. Rogers, formerly an eminent attorney general in his State, I am satisfied you gentlemen are going to demand to know what that means.

It was amusing to me when he said that was hypothetical. Then if you will note his testimony, the gentleman from New York asked a question, and then the Attorney General proceeded to get hypothetical. The Attorney General said "Here is how I would use that injunction." He said, "Suppose two or three thousand Negroes are restrained from voting. I will bypass the State courts and State administrative remedies and I will come in and enjoin." Yes; but he had not thought that through. Do we not have State courts that can handle that? And here is where the defect comes in, and here is where you need some safeguards on this legislation if you are going to have any such authority. What he failed to understand, but which you can under-

stand and appreciate, is that some men's names may be taken off the voters' list and properly so. But they go and see a lawyer. The average lawyer was not born yesterday, Mr. Chairman. What he would do is to get an injunction brought about 24 hours before the election or before the primary. I do not know whether the Attorney General ever got down in these rought-and-tumble fights that the country has experienced or not, but he better learn the facts of life. Why, there where I live, if a lawyer has not got any more sense than to fail to take advantage of a situation like that, he will not get many cases. He would bring that proceeding at a time and he would get an injunction, at a time it could not be heard and his clients would vote. Although when the question came up later, it would be moot. You would not have to decide it, because the damage would have already been done.

Mr. Chairman, you have been unduly kind to me. I could sit here and talk to you from now until Easter about this thing, but I am going to withhold my feelings on this subject for another time and going to express again my pleasure for the courtesies and the kindness that have been shown me. I am going to withdraw myself as a witness now, and let someone else take the stand.

The CHAIRMAN. Thank you very much. We always like to hear you, Brother Forrester, and what you have left unsaid now will be placed in the record. I am sure we will hear further from you in the full committee when we debate the pros and cons of this legislation.

Mr. FORRESTER. Mr. Chairman, for the sake of the record I am tendering the accusation against Owens, the plea of guilty by Owens, the sentence of the court, and my correspondence with the FBI concerning that, and my statement.

(The documents follow:)

JANUARY 1956.

HON. J K. MUMFORD,
Atlanta FBI Office, Atlanta, Ga.

DEAR MR. MUMFORD: Some time last year your agency was directed to investigate the case of one William Henry Owens, a Negro boy, who was arrested on June 14, 1955, by Georgia State Trooper J. W. Southwell, near Ellaville, Schley County, Ga. Your office did investigate this matter fully.

I would like for you to advise me what your investigation of this matter revealed. Particularly, were any constitutional rights or civil rights of William Henry Owens violated? Did the State Trooper Southwell order the automobile of Owens to pull over to the side of the road and commence beating him? Did Tropper Southwell make any statement that "beating a nigger is all in a day's work"? When did you complete your investigation of this case? Did Officer Southwell strike Owens, and, if so, was it in self-defense or to place Owens under legal arrest? Did any justice of the peace in Schley County, Ga., have anything to do with the Owens case? If so, did such justice of the peace make a statement that Owens was lucky to get out and ought not be released? If for any reason whatever you do not feel that you can furnish me this information, then I ask that you refer this matter to your superior officer for instructions. In the July 1955, civil rights hearings before Subcommittee 2, House Judiciary Committee, of which I am a member, Roy Wilkins, executive secretary of the NAACP, testified before that subcommittee on the Owens case, and I think it only proper and fair that the subcommittee have the full facts in that case.

Sincerely,

E. L. FORRESTER,
Member of Congress.

UNITED STATES DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington 25, D. C., January 26, 1956.

Hon. E. L. FORRESTER,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: Mr. J. K. Mumford, special agent in charge of our Atlanta, Ga., Office, has forwarded to me your letter dated January 20, 1956, concerning the matter involving Georgia State Trooper James W. Southwell and William Henry Owens who was arrested by State Trooper Southwell on June 14, 1955.

I wish to advise that at the request of Mr. Warren Olney III, Assistant Attorney General in charge of the Criminal Division, Department of Justice, an investigation was conducted by this Bureau in the above-mentioned matter and the reports reflecting the results of our investigation were forwarded to the Criminal Division for its consideration.

I am taking the liberty of forwarding a copy of your letter to Mr. Olney and it is suggested that you may desire to correspond with Mr. Olney concerning the information you desire in this matter.

Sincerely yours,

J. EDGAR HOOVER.

JANUARY 27, 1956.

Hon. WARREN OLNEY III,
Assistant Attorney General in charge of Criminal Division,
Department of Justice, Washington, D. C.

DEAR MR. OLNEY: On January 20, 1956, I wrote Hon. J. K. Mumford, Atlanta FBI Office, Atlanta, Ga., asking him to furnish me certain specific information that his office had obtained during its investigation of the facts surrounding the complaint in behalf of one William Henry Owens, colored, who was arrested on June 14, 1955, by Georgia State Trooper J. W. Southwell, near Elliaville, Schley County, Ga.

I am today in receipt of a letter from Hon. J. Edgar Hoover dated January 26, 1956, wherein he advises me that Mr. Mumford had forwarded my above described letter to him, and wherein he tells me that at your request, an investigation was conducted by the FBI in the above mentioned matter and the report reflecting the results of that investigation was forwarded to the Criminal Division for its consideration. Mr. Hoover also stated that he was taking the liberty of forwarding a copy of my letter to you, and suggested that I might desire to correspond with you in that matter.

I would like very much to be able to see your report and your findings. Before coming to Congress, I was circuit prosecuting attorney for the circuit in which Schley County is embraced. During those years, I had many occasions to use the services of the FBI. During my entire tenure I cooperated with the FBI in every particular, and so did the sheriffs and arresting officers in our circuit, and the FBI equally cooperated with us. I am simply interested in knowing what the exact facts are, and if you would let me see your record I would greatly appreciate it. If you cannot, please advise me.

Sincerely,

E. L. FORRESTER, M. C.

DEPARTMENT OF JUSTICE,
Washington, February 8, 1956.

Hon. E. L. FORRESTER,
House of Representatives, Washington, D. C.

DEAR MR. CONGRESSMAN: This refers to your letter of January 27, 1956, concerning the investigation conducted by the Federal Bureau of Investigation into the matter of the alleged mistreatment of one William Henry Owens by Georgia State Trooper James W. Southwell, in June 1955, in Schley County, Ga.

While we would like very much to be of service to you, it has long been established that the Department's investigative reports and files are not made available to persons or officials outside the Department. We may state, however, that an investigation was conducted upon allegations that the civil rights statute (18 U. S. C. 242) had been violated, and the file was closed in August

1955. The United States attorney for the middle district of Georgia, Mr. Frank O Evans, concurred in the decision to close the file without prosecution.

If we can be of assistance to you in any other matter, please do not hesitate to call upon us.

Sincerely,

WARREN OLNEY III,
Assistant Attorney General, Criminal Division.

TESTIMONY OF HON. E L. FORRESTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr Chairman and members of Subcommittee No. 5: I appreciate the opportunity of appearing before this subcommittee for the purpose of testifying against the civil rights legislation now pending before this subcommittee. There are several reasons for my having sought this privilege

I was the second ranking Democrat on Subcommittee No. 2 of the House Judiciary Committee 84th Congress, when this legislation was being considered and up to and until the time that H R 627, containing the recommendations of Attorney General Brownell, was reported out of the full committee, and thereafter acting chairman of that subcommittee up to and until the expiration of the 84th Congress It follows that I was thoroughly exposed to the opportunity of knowing that legislation, as I studied that legislation, and heard all of the ex parte evidence submitted to Subcommittee No 2, and was and am still conscious of the fact that the sole testimony produced before that subcommittee was that of the authors of civil rights legislation, and testimony of high-powered pressure groups dealing in generalities and condemnations, without any requirement whatsoever that the generalities and condemnations be proven by any evidence. Additionally, I was one of the authors of the minority report filed in opposition to H R 627, 84th Congress, appearing on pages 19–28 of the report accompanying H R 627 I appeared before the Rules Committee of the House, and spoke against that legislation on the floor of the House last year Also, I think I should know this problem as well as any member of this subcommittee, by reason of having lived all of my life in the section of the United States that virtually everyone concedes that this legislation is designed against. Also, because this legislation is now pending before a new subcommittee, and only one member of this present subcommittee had the opportunity of studying this legislation, to wit: the gentleman from New York, Mr. Miller. Further, this present subcommittee, composed of 7 members, has 4 members who are authors of civil rights legislation, these 4 constituting a majority, and 6 out of the 7 members of this subcommittee are recorded in the Congressional Record of July 23, 1956, page 12766, as having voted for H R 627, which was the Brownell recommendations on civil rights It is significant that not a single southerner is a member of this subcommittee, and I assume that the gentleman from Ohio, Mr McCulloch, would vie with the gentleman from New Jersey, Mr. Rodino, as living closer to the area affected than any other member of this subcommittee I believe that this subcommittee will be thoroughly conscious of the fact that had this legislation been referred to a subcommittee where a majority of that subcommittee were southerners, that some of the agitators for civil rights would have demanded that the chairman be expelled from Congress and the subcommittee dissolved. I am certainly on firm foundation so far as that statement is concerned, for we all know what those agitators have said publicly and in print against Hon James Eastland, United States Senator, Mississippi, and will remember vividly that some of the so-called policymakers of the Democratic Party vigorously demanded that Senator Eastland be denied his chairmanship of the Senate Judiciary Committee Labor's Daily, February 1, 1957, issue, page 2, carries an article entitled, "Eastland stacks civil rights unit," and proceeds to say that Senator Eastland named Senators Ervin, North Carolina; Johnston, South Carolina; Watkins, Utah; and Hruska, Nebraska, to a subcommittee that O'Mahoney and Langer are already members of I hasten to state that I am not suggesting that the subcommittee be dissolved, and I have no patience with such suggestions coming from people who masquerade under the guise of tolerance, but who are the most intolerant people that ever lived in this country, and who will wreck this country unless they cease their resentment toward people who do not agree The composition of subcommittees is a power granted under our rules and I work under rules. So, I come to this forum today talking as one good American to other good

Americans, and ask my God to direct me as I talk to you, and I am certain you are asking Him to be with you as you hear me, and as you reflect upon this legislation.

Believe me, I understand well what pressure means Nevertheless, there are times in the lives of all men when we as men must be indifferent to pressure, indifferent to the personal equation, completely indifferent as to whether we or any of us remain in Congress or not, and completely and devotedly determined to do that which is good for our Republic, and particularly when we all know we are facing the most dangerous hours that have confronted the human race After all, whether we are from the North, South, East, or West, we are citizens of the grand and glorious Republic of the United States. It is given to few men the exhalted privilege of standing up for our country's defense and preservation. I pray to God that I shall be worthy of that noble privilege. I know everyone of you does likewise. As one American to other Americans, let me remind you of the terrific responsibility placed on us on January 30, 1957, when we stood up and voted on the floor of the House to give our President the right to make war I am certain that there is not a member of this subcommittee who does not appreciate the gravity of that action, and knows in his heart that although we have peaceful intentions, we can very shortly be engaged in the war of all wars.

It is somewhat amazing to hear a witness during these present hearings explain why the King of Saudi Arabia was insulted in New York. To my people, and I hope to all American people, there can be no explanation for insulting a guest within our borders. I do not share the belief at all that it is our duty to tell and compel other nations to run their business in accordance with our beliefs, although that has been a pastime for these "tolerant" boys. I know that those insults did our President a great disservice, and our country a great disservice. I cannot help but wonder who those tolerant boys are planning to have on our side if war should come

I think it follows that never has there been a time in our national history that the chips have been more completely down, and that unreserved loyalty, fidelity, and service should be demanded of every citizen in this country. Further, if this war should come, and we pray it will not, we will need every good citizen in this country to preserve our Government, indeed our lives and our properties. It is inconceivable, but unfortunately it is completely true, that in this direst hour, attempts are being made to divide our country. I regret these attempts and I condemn them, but I regret much more the apparent fact that those who are trying to divide us have met with marked success, and are looking forward confidently to further division in the future. I say to this subcommittee, although you many not believe it and may continue to disbelieve it, that this legislation not only has the seeds for the division of our people, but many are looking forward to the greater division that they are certain will follow with the enactment of this legislation.

The situation now is such that it is time to speak plainly and time for people to listen and act. I realize that it is extremely hard for a subcommittee composed entirely of members from sections that have not been acquainted with these problems, as my section has to its sorrow and grief been acquainted, to understand the true situation my people are placed in, your people stand to be placed in, and the country subjected to. I know that it is a civilized instinct to sympathize with the so-called underdog. I would not try to change your sympathies in that respect at all. I rather believe that had these southern problems been northern and eastern problems only, that we southerners would probably have had the same sympathies that you have, for believe it or not, the southerner is a sucker when dealing with matters concerning the little man. The southerner has learned from practical experience things that you may hereafter learn the hard way, and perhaps too late. We would tell you if we could, but maybe we cannot. Yet, I consider it my duty to try.

If one will refer to the 1955 hearings before Subcommittee No 2, he will find the specific organizations which testified in behalf of civil-rights legislation, but for the sake of the record, they are as follows:

Chairman of the National Civil Rights Committee, Anti-Defamation League of B'nai B'rith, accompanied by director, Anti-Defamation League of B'nai B'rith, Washington, D. C.;

Executive secretary of the NAACP, New York, accompanied by the director of the Washington Bureau and counsel for the bureau;

General counsel, American Jewish Congress;
Executive director, American Veterans Committee;
Secretary-treasurer, International Union of Electrical, Radio, and Machine Workers, CIO,
Codirector of the Fair Practices and Anti-Discrimination Department, UAW-CIO, accompanied by national representative, UAW-CIO;
Legislative representative, Americans for Democratic Action;
Director, American Council on Human Rights,
W Astor Kirk, who said he was appearing as a private witness, although a professor of government at Huston-Tillatson College, Austin, Tex;
Washington representative, Japanese-American Citizens League;
Statement of the National Community Relations Advisory Council, the statement reciting that it represented the combined and joint views of the constituent organizations as shown on pages 360–361 of the hearings;
Statement by the National Lawyers Guild, National Council of Jewish Women, Inc., Womens International League for Peace and Freedom, and the American Civil Liberties Union.

These are the only organizations in the entire United States that appeared and recommended this vicious legislation. They are the same organizations appearing and testifying in the present hearings I think it well that the public know something about these organizations and their backgrounds, and that I shall attempt to give them. First, I think it important that this subcommittee have before it the declaration of the Communist Party of the United States in the year 1928, and see the platform of that party concerning the minority races and particularly the members of the Negro race. That platform was the platform of a party that was and is dedicated to the overthrow of this Government by force and violence.

That platform can be found in the Daily Worker, May 26, 1928, issue, and is available through the Library of Congress, and I think this subcommittee should procure a copy and read it. I hope it is of interest, because virtually the entire platform of the Communist Party has been adopted in the United States in toto through administrative, executive, and judicial orders, and civil-rights legislation is all that they desire in order to completely implement every one of their demands

I am reliably informed that there is a building in New York known as Freedom House; that the chairman of the board is W. N Seymour, who at one time represented the International Labor Defense, which was branded by the Attorney General as the legal arm of the Communist Party; that the executive secretary of Freedom House, George Field, was once director of the educational department of the American Labor Party in New York; that one of the directors was Rex Stout, formerly editor of the official Communist weekly, New Masses; that on the eighth and ninth floors of Freedom House are the offices of the Anti-Defamation League of B'nai B'rith, while on the fourth and fifth floors are offices occupied by the NAACP, and the NAACP magazine Crisis emanates from there. I am also advised that the Leadership Conference on Civil Rights has its headquarters at Freedom House. The Leadership Conference on Civil Rights is the organization that is supposed to have arranged the conference on civil rights in Washington, D C, last year, with Roy Wilkins, executive secretary of the NAACP as chairman It will be recalled that this meeting was composed of delegates numbering over 2,500 and that these delegates were to buttonhole the Members of Congress while here and demand civil-rights legislation; that this conference was to be held in the Departmental Auditorium in the District of Columbia, a Government institution, and that arrangements for the meeting place were made by Herman Edelsberg, director of the Anti-Defamation League of B'nai B'rith, Washington, D C Anyone who was a Member of Congress last year will remember how over 2,500 of those delegates descended upon the Capitol of the United States, upon the individual Congressmen, and the demands they made It is meet and proper that this subcommittee know and the public know the organizations composing the Leadership Conference on Civil Rights, and I itemize them as follows:

A. M. E. Zion Church
American Civil Liberties Union
Alpha Phi Alpha Fraternity
American Council on Human Rights
American Federation of Labor
American Jewish Committee
American Jewish Congress

American Veterans Committee
Americans for Democratic Action
Anti-Defamation League of B'nai B'rith
Brotherhood of Sleeping Car Porters, AFL
Catholic Interracial Council
Colored Methodist Episcopal Church
Congress of Industrial Organizations
Congress of Racial Equality
Delta Sigma Theta Sorority
Hotel, Restaurant, and Bartenders International Union of America, AFL
Improved Benevolent and Protective Order of Elks of the World
International Ladies Garment Workers Union, AFL
International Union of Electrical, Radio, and Machine Workers, CIO
Japanese American Citizens League
Jewish Labor Committee
Jewish War Veterans of the U. S. A.
National Alliance of Postal Employees
National Association for the Advancement of Colored People
National Association of Colored Women, Inc.
National Baptist Convention, U. S. A.
National Bar Association
National Catholic Committee on Race Relations
National Community Relations Advisory Council
National Council of Jewish Women
National Council of Negro Women
National Frontiers Club
National Negro Business League
National Newspaper Publishers Association
National Religion and Labor Foundation
National Supreme Council Scottish Rite Masons
Phi Beta Sigma Fraternity
Phi Delta Kappa Sorority
Textile Workers Union, CIO
The American Ethical Union
The Women's Circle
Transport Workers Union of America, CIO
Unitarian Fellowship for Social Justice
United Automobile Workers of America, CIO
United Hebrew Trades
United Rubber Workers, CIO
United Steel Workers of America, CIO
United Transport Service Employees of America, CIO
Workers Defense League
Young Women's Christian Association

The National Civil Liberties Clearing House had a part in arranging the meeting referred to, and a list of the organizations sponsoring the clearing house is information the public should have, and I itemize below some of those groups:

Amalgamated Clothing Workers of America, CIO
American Association for the United Nations
American Association of Group Workers
American Association of University Professors
American Book Publishers Council
American Civil Liberties Union
American Council of Learned Societies
American Council on Human Rights
American Ethical Union
American Federation of Teachers, AFL
American Friends Service Committee
American Jewish Committee
American Jewish Congress.
American Library Association
American Newspaper Guild, CIO
American Nurses Association
American Veterans Committee
Americans for Democratic Action

Anti-Defamation League of B'nai B'rith
Association on American Indian Affairs
B'nai B'rith Women's Supreme Council
Carrie Chapman Catt Memorial Fund
Central Conference of American Rabbis
Church of the Brethren, General Brotherhood Board
Common Council for American Unity
Congregational Christian Churches, Council for Social Action
Congress of Industrial Organizations
Council of Liberal Churches
Council for Civic Unity of San Francisco
Evangelical and Reformed Church, Commission on Christian Social Action
Federation of American Scientists
Friends Committee on National Legislation
General Alliance of Unitarian Women
Hadassah
International Union of Electrical, Radio, and Machine Workers, CIO
Japanese American Citizens League
Jewish Community Council of Metropolitan Boston
Jewish Community Relations Council of Philadelphia
Jewish Labor Committee
Jewish War Veterans of the U. S. A
League of Women Voters of the U. S.
Methodist Church, Board of Missions, Women's Division
National Association for the Advancement of Colored People
National Community Relations Advisory Council
National Council of Catholic Women
National Council of Churches
National Council of Churches, Washington Office
National Council of Jewish Women
National Education Association, Defense Commission
National Farmers Union
National Lutheran Council, public relations division
National Service Board for Religious Objectors
National Urban League
Protestant Episcopal Church, division of christian citizenship
Robert Marshall Civil Liberties Trust
Sons of Italy
Textile Workers Union of America, CIO
Union of American Hebrew Congregations, Commission on Social Action
Unitarian Fellowship for Social Justice
United Automobile Workers of America, CIO
United Church Women
United Steelworkers of America
Women's International League for Peace and Freedom
Young Women's Christian Association

I am also advised that the National Jewish Welfare Board contributes office space, utilities, and telephones to the clearinghouse.

It is a fair assumption that the organizations referred to are working in unison, many being in the same building, and being members of the clearinghouse referred to.

The NAACP is not now and never has been an organization commenced by Negroes and operated by Negroes. I am indebted to an article appearing in the Congressional Record of May 17, 1956, pages A4037–A4038, for certain facts which I had understood were true but which I had not had complete proof of. That article makes it crystal clear that the NAACP was not organized by Negroes, but by members of the white race, at Springfield, Ill. That article says that the NAACP has had three presidents. The first, Moorefield Storey, was once the secretary of Massachusetts abolitionist Senator Charles Sumner; the second president was Joel E. Spingarn; and the third was his brother, Arthur B. Spingarn, all of whom were white. The article also says that the top executive board is interracial, with 48 directors divided about 50–50 between Negroes and whites. It is strange indeed that this should be called a Negro organization since certain members of the white race have exclusively held the highest office from its birth to date and hold one-half of the directorships. This will be news to many good Americans, but it is absolutely true. The NAACP is simply the agency that is always put in the forefront by the other organizations,

evidently the other agencies remaining submerged, but affiliated just the same. One of the founders of the NAACP was W. E. B. DuBois, who donated his services in the preparation of legal briefs in behalf of Julius and Ethel Rosenberg. In 1953 he was awarded the International Peace Prize by the Communist-front World Peace Council, in recognition of his assistance in a series of Communist-dominated world peace conferences attempting to undermine the North Atlantic Treaty Organization. Anyone desiring information concerning the leadership of the NAACP can and should read the speech of Congressman Gathings, Arkansas, February 23, 1956, appearing in the Congressional Record of that date, where he called names and gave their records, and so far as I know, not one of his allegations has been disputed I am informed that of the 48 members comprising the association's board of directors, 28 have records with the Un-American Activities Committee.

The NAACP pamphlet entitled "Ninety Years of Freedom," 1953 annual report, page 11, tells of a convention meeting, and at such convention the following resolutions were passed: (1) A demand that Federal civil-rights legislation be enacted; (2) reversal of Senate cloture rule 22 to stop filibuster; (3) an end to "the current investigations into education" carried on by the Un-American Activities Committee; (4) condemnation of Senator McCarthy; (5) called on President Eisenhower "to restrict the loyalty and security program to security sensitive departments." It is quite interesting to observe that all of these demands are in the process of being complied with It is amusing but tragic to read that the NAACP claims credit for the Supreme Court school cases decisions in 1954, and in the same breath resolves against investigations into the field of education by the Un-American Activities Committee, when they well know that the actions of that committee are restricted to subversion, and that such committee has never trespassed upon the field of education in any way whatever. Also, in the case of *Barenblatt v U. S.*, decided January 3, 1957, in the United States Court of Appeals, District of Columbia Circuit, it was contended by the attorneys for Barenblatt, who had been identified before the Un-American Activities Committee as having been associated with communism while at a university, and was convicted for contempt for refusing to testify before the Un-American Activities Committee, that Barenblatt's conviction must be reversed because the field of education was a State function and free of governmental control or interference. They blow hot and they blow cold. They use such arguments as they think can be helpful for the moment, while they go on with their work to destroy constitutional government in this country.

The American Jewish Committee mailed to each Member of Congress a pamphlet entitled "The People Take the Lead" and attached thereto was a card bearing the name Irving M. Engel, president, and on that card was an expression of pleasure over sending that pamphlet to us. The American Jewish Yearbook, 1956, volume 57, available through the Library of Congress, can be read with profit by this subcommittee and the public. On page 631 thereof, the following appears: "It was most fitting, therefore, that we were very closely involved with the Supreme Court decision. Not only were we active along with other organizations in the filing of an amicus brief, but we contributed materially to the social theory upon which the desegregation decision was based. The ruling, you know, gave great weight to sociological and psychological factors. The court took into account, along with purely legal considerations, the effect of segregation on personality, and concluded that separate facilities cannot be equal because of the psychological damage caused by segregation." On page 632 we find the following: "The fact-finding studies from which this theory developed would not have been made were it not for the American Jewish Committee." Also, on page 632· "And let say at this point that any Jew—any member of any minority group—who feels he has no stake in this problem because he is not a Negro, fails to see the realities of the situation." In the civil rights hearings of 1955, pages 235–247, will be found the testimony of Judge David A. Rose, chairman, National Civil Rights Committee, Anti-Defamation League of B'nai B'rith, accompanied by Herman Edelsberg, Anti-Defamation League of B'nai B'rith, Washington, D. C. The testimony of Judge Rose is not only shocking, but would have to be read to be believed. Judge Rose demonstrated his complete intolerance by admitting during a cross-examination by me that he advocated a penal law whereby any person connected with a State which had formerly had public schools before the Supreme Court decision of 1954, who advocated the abolishment of public schools and private schools substituted therefor, would be guilty of a felony. Page 247 shows that Mr. Edels-

berg advised the chairman, Hon. Thomas J. Lane, that he stood on what Judge Rose had said

The record of the National Lawyers Guild is well known, and particularly to the members of the House Judiciary Committee. I assert as a fact that as a member of the Judiciary Committee I have received many letters and briefs from that organization on legislation pending before the Judiciary Committee, and that the National Lawyers Guild has consistently, and on every occasion, been opposed to any legislation whatever that would be for the benefit of the United States, and its position has been such that would positively redound to the benefit of enemies of our country I wonder if any member of the House Judiciary Committee would wish to deny that statement. Nevertheless, on July 27, 1955, the National Lawyers Guild wrote Hon Thomas J Lane, chairman of Subcommittee No 2, House Judiciary Committee, advising that Chairman Lane's subcommittee was then considering civil rights legislation, that the National Lawyers Guild had drafted a model civil rights bill, and urged that H R 389, by Congressman Powell, or H R. 3688, by Congressman O'Hara, be reported favorably. On April 23, 1956, the National Lawyers Guild wrote all of the members of the House Judiciary Committee, urging their support of the omnibus civil rights bill, H R 627. The National Lawyers Guild, in that letter, endorsed a Commission on Civil Rights, the addition of an Assistant Attorney General in charge of civil rights, and evidently endorsed the Brownell provisions entirely, except that they thought criminal penalties should be added. I think it well to direct the attention of the members of the House Judiciary Committee to the letter they received from the National Lawyers Guild April 15, 1954, denouncing all legislation designed to outlaw the Communist Party. I think it expedient that I tell this subcommittee that I have in my files my copies of the letters that I have referred to. I would like also to direct the attention of the members of the House Judiciary Committee to the briefs and letters they have received from the American Civil Liberties Union, and ask them if they ever got a brief or letter from that organization that demonstrated the slightest interest in the preservation of constitutional government, and whether any brief or letter written by that organization smacked of true Americanism. "By their fruits ye shall know them" William Z. Foster, one time head of the Communist Party in the United States, was a member of that union.

I think it well now that my attack on these organizations should be explained in this manner I attack any organization, irrespective of race, creed, or color, where the national interest is involved My attacks are not on the basis of race, creed, or color per se, and I want that thoroughly understood I think that I am completely aware of the fact that these organizations do not represent the thinking of the great majority of the Negroes, Jews, or other of the so-called minority groups There appeared before this subcommittee Hon. Charles J. Bloch, Macon, Ga., who is 100 percent Hebrew blood, but one of our greatest Georgians, and a wonderful American He is and has been my friend, and I say without fear of contradiction that Charlie Bloch is as popular as any citizen in the entire State of Georgia. There are many, many Hebrews in the district I have the honor to represent, and I do not know one that I cannot honestly call my friend and supporter They have enriched the professions and the businesses and industries in my State, and never have I had one of their faith tell me that segregation or pride of race was harmful As a matter of fact, and it may as well be conceded, the Jew is and has been throughout the ages the most ardent segregationist that the world has ever known, and this being true, segregation cannot be harmful Every Jew knows that his faith was established on the theory of segregation, and every person who has a working acquaintance with the Bible likewise knows that truth. Genesis, chapter 12, verses 1–3, is complete authority for this truth. There you read that the Lord told Abram (later Abraham), "Get thee out of thy country, and from they kindred, and from thy father's house, unto a land that I will shew thee; and I will make of thee a great nation, and I will bless thee, and make thy name great; and thou shalt be a blessing, and I will bless them that bless thee and curse him that curseth thee; and in the shall all families of the earth be blessed."

There is the rule of segregation in full force What did God tell Abram to do? He told him to leave his country, even his family and his kindred, to break all ties, to make a new start Would a member of this subcommittee tell a man to do that? Yet God knows mercy as none of us know it, so we must construe that command as being one that God knew to be of the very essence of a new seed that would mean something to the other people of the earth. Read in Genesis, chapter 16, how Abram had a son by his wife's handmaiden, an Egyptian, and how God, through his angel, revealed to Sarah that this child

would be against every man, and every man's hand against him. We all know what happened to Ishmael and his mother; yet, God Almighty revealed to Abraham and his wife Sarah that Sarah would bear a son, and his name would be Isaac and Isaac would be the son of an everlasting covenant, and with his seed after him. See Genesis, chapter 17, verses 19–22. In Genesis, chapter 18, we read that the Lord appeared unto Abraham, again saying that Sarah would have a son, thus showing that Isaac was the chosen one, and that Ishmael, the elder, was not the son of promise. Genesis, chapter 24, tells us that Abraham was old, and the Lord had blessed him in all things, and that Abraham called in his eldest servant, and asked the servant to swear by the Lord the God of Heaven, that a wife would not be taken for Isaac from the daughters of the Canaanites, amongst whom they dwelled; but that he would go to Abraham's country, and to his kindred and take a wife for Isaac. We know the servant obeyed his oath and found Rebekah at the well. Genesis, chapter 24, describes this action and tells of the servant talking to the father of Rebekah, telling him what occurred and that the father said: "The thing proceedeth from the Lord * * * Take her, and let her be thy master's son's wife, as the Lord hath spoken." According to Genesis, Abraham was not unprolific, for he had many sons, but Genesis, chapter 24, verses 5–6, says that Abraham gave all that he had unto Isaac, and unto the sons of his concubines he gave gifts and sent them away from Isaac, eastward, unto the east country. Yes, according to the Bible, God Almighty discriminated.

Read Genesis, chapter 25, telling of the birth of twins to Rebekah and Isaac, and that the Lord told Rebekah: "Two nations are in thy womb, and two manner of people shall be separated from thy bowels; and the one people shall be stronger than the other people; and the elder shall serve the younger." We of course know that Esau was the elder and Jacob the younger, and Genesis, chapter 26, tells us that Esau took to wife Judith and Bashemath, both daughters of the Hittites, "which were a brief of mind unto Isaac and to Rebekah." Read the lament of Rebekah to her husband, Genesis, chapter 27, verse 46: "I am weary of my life, because of the daughters of Heth. If Jacob take a wife of the daughters of Heth * * * such as these which are of the daughters of the land, what good shall my life do me?" Then, Genesis, chapter 28, verse 1: "And Isaac called Jacob, and blessed him, and charged him, and said unto him, "Thou shalt not take a wife of the daughters of Canaan. Arise, go to Padanaram, to the house of Bethuel thy mother's father; and take thee a wife from thence of the daughters of Laban thy mother's brother." In the same chapter, read where Isaac told Jacob that then God would bless him, make him fruitful, and give him the blessing unto his seed. Read Genesis, chapter 30, telling of the birth of children by Leah and Jacob, and particularly the birth of their daughter, Dinah. Then turn to chapter 34, Genesis, and read about the first recorded lynching because of race. That chapter says that Dinah, the daughter that Leah bore Jacob, "Went out to see the daughters of the land"; that "Shechem, son of the Hivite, prince of the country, saw her, took her, and lay with her, and defiled her," but his soul clave unto her and he loved her, and spoke kindly to her; that Schechem asked his father to get Dinah for him to wife. But Jacob heard that Shechem had defiled Dinah, and his sons were in the fields and Jacob held his peace until they were come. The father of Shechem went to Jacob to commune with him, but the sons of Jacob heard the facts, were grieved and wroth "because he had wronght folly in Israel in lying with Jacob's daughter, which thing ought not to be done." Hamor told Jacob that his son longed for Dinah and wanted to marry her, and said: "And make ye marriages with us and give your daughters unto us, and take our daughters unto you." "Ask me never so much dowry and gift and I will give according as ye shall say unto me." But the sons answered deceitfully and said we cannot give our sister to one that is uncircumcised but we will consent if every male of you be circumcised. So, Hamor and Shechem and every male of their group were circumcised, but that chapter says that on the third day, "when they were sore" Dinah's brethren came upon the city and slew all of the males, including Hamor and Shechem, and spoiled the city, and took their sheep and oxen and asses and that which was in the city, and which was in the field, and all their wealth and all their little ones and their wives they took captive.

Let's pass on hurriedly to the selling of Joseph by his brethren, the famine, and the 400 years of slavery suffered by the Israelites at the hands of Egypt, and God's plan for the Israelites to return to the land of Canaan. The 33d chapter of Exodus tells us that the Lord told Moses to go with the people brought out of Egypt unto the land that He swore unto Abraham, Isaac, and

Jacob that He would give unto their seed, and that He, the Lord, would drive out the Canaanite, the Amorite, Hittite, Perrizite, the Hivite, and the Jebesite. If that isn't complete segregation in behalf of the children of Israel and against the brotherhood-of-man theory, then I ask what does that mean? In chapter 34 of the book of Exodus, verses 11–16, the theory of segregation is completely endorsed, for there the Lord tells the children of Israel again that He would drive out all of the described races, and for them to take heed, lest they make a covenant with the inhabitants of the land, and they were to destroy their altars, cut down their groves, and they must not take of the inhabitants' daughters unto their sons, thereby prohibiting intermarriage Chapter 25 of Numbers, verses 6–7, tells that one of the children of Israel brought unto his children, and in the sight of Moses, a Midianitish woman, come before the door of the tabernacle and the congregation, and that a son of Aaron saw it, took a javelin, and thrust it through the man of Israel, and the woman through her belly, and that the plague was stayed from the children of Israel See chapter 31 of Numbers, where the Lord spoke to Moses and told him to avenge the children of Israel of the Midianites and that Moses spoke to the people, and they slew the kings of Midian, took all the women of Midian captive and their little ones, took the spoil of all their cattle, all their flocks, and all their goods, and burnt all their cities and all their castles with fire See the 34th chapter of Numbers, where the Lord spake unto Moses, telling Moses the boundaries of the land that the children of Israel should have for their inheritance, as promised to Abraham, Isaac, and Jacob

Then see Deuteronomy, chapter 2, verses 4–6, telling them to pass through the lands of Esau, for He would not give them as much as one foot of that land, because He had given that land unto Esau for a possession, and also where the Lord told them not to bother the Moabites and their possession, because He had given it unto the children of Lot Then turn to Deuteronomy, chapter, 6, where Moses instructs the children of Israel what they shall do when they enter into the Promised Land; those instructions were that they were to diligently teach their children, and write upon the posts of their houses and all their gates, when they come into the land given to Abraham, Isaac, and Jacob, and unto cities which they builded not, houses full of good things which they fillest not, and wells which they diggest not, vineyards and olive trees which they plantest not, and note in chapter 7, Deuteronomy, that they were told that when they went in, cast out the Hittites, Girgahites, Amorites, Canaanites, Perrizites, Hivites, and Jebusites, and when the Lord had delivered them before thee, smite them, utterly destroy them, make no covenant with them, nor shew mercy unto them, and "neither shalt thou make marriages with them; thy daughter thou shalt not give unto his son, nor his daughter shalt thou take unto thy son" And, Moses makes it clear in the 6th verse of chapter 7, Deuteronomy, why they were to do these things, in the following language: "For thou art an holy people unto the Lord thy God, and the Lord thy God hath chosen thee to be a special people unto himself, above all people that are upon the face of the earth" It clearly appears that when the children of Israel were going over into the land of Canaan that they went not in the spirit of the brotherhood of man, nor with any idea whatsoever of integration, but with the understanding that they were chosen by God to be a special people, and above all the other people upon the face of the earth. Then pass on over to Joshua, the man who led the children into the Promised Land and who settled the children of Israel into the Promised Land, and see what Joshua said in the 23d chapter of the book of Joshua, when he was talking to the elders, and the heads of Israel, telling them he was old and stricken in years, but that he had divided unto them the nations which they inherited, and that the conquest was possible because the Lord drove out the inhabitants, and for them to be certain that they make no marriages with the inhabitants that had been driven out, for as a certainty, the Lord would no more drive out any of these nations from before them, if they did Any Bible student knows that the instructions forbidding intermarriage and setting up segregation continued throughout the old Bible, for certainly they are acquainted with the grief that befell Samson, the grief of Saul, David, and Solomon

Throughout the old Bible runs the theme that the children of Israel were a special people and a higher people, above all people upon the face of the earth. These biblical references are not in disparagement of the Jewish faith, for they must be accepted by anyone who accepts the Bible as the divine word of Almighty God Truly, the Jewish were a special people and old Israel produced more great men than any other government or governments in all of this world, and men who influenced the world as no other people have been able to do. In no

way was the doctrine of segregation abolished in the day of Jesus Christ, for Jesus himself said that he came first to the Jews. It is true that the Queen of Sheba had gone to Solomon in the Old Testament days and marveled over his wisdom, but also true that she went back to her own country, and did not stay in Jerusalem or in Israel. It is true that the New Testament in the 8th chapter of the book of Acts, tells that the angel of the Lord told Philip to arise, go south, unto Gaza, which is desert, and Philip arose and went, and there saw a eunuch of great authority over Candace, queen of the Ethiopians, who had charge of the queen's treasure, and who had been to Jerusalem to worship, but was returning, and under such circumstances Philip told the eunuch of Jesus Christ, the eunuch believed, and Philip baptized the eunuch. Isn't it a little strange that the Lord did not send Philip to the eunuch when he was in Jerusalem? It would seem that maybe He would have, had the Lord wanted an amalgamation of the races. One wonders why the Lord directed Philip to the eunuch, only when the eunuch had left Jerusalem, was in the Gaza Desert, and returning to his people. There is no doubt of the fact that the Lord wanted His gospel preached to every living creature, but somehow, it seems that the Lord was not an integrationist Gaza is very much in the news at this time. Who did it belong to then, and who does it belong to now? What does the present country known as Israel owe its existence to? Was it because of the old Bible, which teaches segregation every step of the way, that this land was given to the seed of Abraham, Isaac, and Jacob forever? What does the Jew say about this? The people of the Jewish faith are the ones who set up private schools, and they have had private schools through the ages, and have them now, even having schools in Washington, D. C., teaching the old Hebrew language and customs. These people proved that private schools were and are successful. The Catholics have for many years had private schools, and without a doubt they have been successful, and they continue to be successful. That same statement goes for their private hospitals, which they have successfully operated over the years. Down where I live, the Catholic, the Jew, the Gentile, all live together in unity, each conceding to the other the right to be different in race, religion, and in thought. Really, that is only in accordance with commonsense.

The agitation from these groups that have testified, and which I say again represent minority views, are designed for the mongrelization of the races. I wonder if anyone disputes that statement and if they do, why they do. Are not some of these groups the same people who inaugurated the economic boycott? Where did the economic boycott originate in the South? Was it the work of the southern white man? We all know that the boycotts in Montgomery, Ala., Tallahassee, and other places were completely the work of these minority groups. They attempt to justify these practices by saying they have been denied their constitutional rights. Is that the way to proceed, or are the courts the proper forum for redress? Who is responsible for the fact that though the Negroes are 10 percent of our population, the administration says that 25 percent of the employees in government jobs are Negroes? Why is it that in the prize fights which we see on television, the white man has on black trunks and the Negro white trunks? Why is it that on television, Perry Como and Ed Sullivan apparently never fail to have a Negro performer on their shows? What is the Red Rooster Club which says it will boycott the Washington Redskins and the Washington baseball club unless they employ other Negro athletes? Who is it that is now demanding that 20th Century-Fox incorporate love scenes in its movies between white women and Negro men? The New York Amsterdam News, January 19, 1957, in an article entitled "The Real Thing," by James L. Hicks, answers that question. Hicks says that they have now accomplished "the real thing" in the movie entitled "Edge of the City," starring Sidney Poitier with Ruby Dee playing the part of Sid's wife?

I have no doubt but what the Brownell recommendations on civil rights legislation are the ones that this subcommittee will seriously consider. I think that it might be well to consider Mr. Brownell's recommendations and how they came about. It is positively true that President Eisenhower was elected in 1952 as a champion of the rights of the States. It is equally true that in the years 1953–55, no recommendations for civil-rights legislation were made by the President or his administration. It is also true that in the civil-rights hearings of 1955, the Eisenhower administration and Mr. Brownell were repeatedly invited to appear and testify, and to submit proposed legislation, which invitations were ignored. It is historically true that only after H. R 627 was reported out of subcommittee No. 2 in 1956, that the present administration showed any inclination whatever to recommend any civil-rights legislation and thought that

any further civil-rights legislation was justified. In April 1956, Mr. Brownell for the first time came out with proposals and, candidly, any lawyer could easily recognize that his proposals were hastily drawn and ill-considered. They were and are now legal monstrosities His recommendations for a Commission on Civil Rights carries with it the power of subpena, and under it a witness can be compelled to go from one side of this country to the other to testify. There is no provision whatever for a State or person to have the privilege of testifying to contest any charges that are brought. There are no rules governing that Commission, and the Attorney General wipes this omission off by saying that the membership of the Commission would be of such high caliber that rules are not necessary How illogical can the head of the legal department of the United States get? That is against every reason we have ever had for courts. The Attorney General recommends an Assistant General to handle civil-rights matters, but on cross-examination he enthusiastically declared that this Assistant Attorney General shall be under his control. Does not that leave him where he presently is? What is the advantage of another assistant, for will not some of his present assistants do, under those circumstances? Why didn't he tell this subcommittee that he would need a hundred or more assistant attorneys to do the job he is contemplating, and maybe a thousand?

The Attorney General, in his testimony of February 4, 1957, admitted that laws already on the books provide criminal prosecutions and give persons denied their constitutional rights the privilege of bringing private suits. He further admitted that he had intervened in the Hoxie County, Ark, and in the Clinton, Tenn, cases and he had done all of this under authority now possessed. He is either operating under the law or under usurpation of law, for he either has the power now or he does not. The Attorney General artfully said that he did not wish to answer hypothetical questions. I cannot think that the questions propounded him by the gentleman from Colorado, Mr. Rogers, the gentleman from New York, Mr. Miller, and the gentleman from Louisiana (not a member of the subcommittee), was hypothetical. I wonder why Mr. Brownell would never answer whether or not the injunction granted against the school board in Clinton, Tenn, under present law, was the basis for contempt charges against persons who were not parties to that action, and whether the whole world is now liable to be brought into court on charges of contempt, if such persons had done something against integration in that school? The entire legal world wants that question answered The legal world wants to know what Mr. Brownell contends in that regard, and certainly the lawyers want to know. Mr. Brownell said he wanted to bypass all State laws and administrative agencies and go into court, with or without the consent of the plantiff and obtain injunctive and equitable relief, and explained that he wanted that power because (and here he became hypothetical himself) some southern registrar of voters might remove names of Negroes from the voters lists a few days before a general or primary election What he did not say, but what is perfectly plain to any lawyer, is that if the registrar removed some names from a voters list, the persons removed could wait until approximately the time of the primary or general election, obtain an injunction, and under that injunction those persons would be able to vote, whether legal or not. His remedy is far worse than the disease that he is afraid of, but never could isolate. I wonder what the Attorney General thinks will happen when he gets authority to bring suits against all of the members of the local school boards, and if he does not think that his legislation is calculated to destroy the public-school system. It is asking too much of a civic-minded individual to sit upon such a board, and become a sitting duck for all of the charges that can be thrown at him by an all-powerful Government. This legislation is not friendly to the public-school system, but because of its harshness may scompel the setting up of private schools. How he could want to pursue these school officials so vigorously, I do not know.

Experts at Villa Nova say that the Negro is inferior mentally. The Washington Daily News, February 1, 1937, page 5, says that school Superintendent Corning, Washington, D. C., released the following horrible facts: 12,000 first-graders took readiness tests last September. Only 1,707 were graded "high normal"; 3,644 were graded "average"; 4,719 were graded "low normal"; and 1.571 graded "poor." Also, that superintendent said that the tests showed "a much higher proportion of low ratings amongst District children than those taking a similar test in other parts of the country." What does this mean? It simply means that the integration of the large Negro population in the District schools is responsible for that terrible average. The wide-eyed theorists must be at a loss to explain this, because these were first-graders, and they are

deprived of the argument that segregated schools had embarrassed them. It is perfectly plain to anyone who wants to see, that the Davis subcommittee, if subject to any criticism whatever, understated the true facts.

I happened to hear the Attorney General on a television broadcast 2 or 3 Sundays ago, and I looked at him and heard him say that he was in a doubtful area so far as legislating on elections and primary elections is concerned. I know that, and this subcommittee does too, but he never told the subcommittee just why it is a doubtful area, when Mr. Willis reminded him of his statement. In the minority opinion filed with H. R. 627 last year, and heretofore referred to, will be found an exhaustive brief showing the unconstitutionality of the proposals of Mr. Brownell.

We are the guardians of the Constitution, and it has served us well. Had we adhered to our Constitution, we would not be in the situation we are facing today. Had the rights of the States been respected, communism would be no problem to this country. When the Supreme Court reversed the conviction of Angelo Herndon (301 U. S. 242–264) after that Communist was convicted for attempting to incite insurrection, the States would have taken care of our Constitution and wound up the Communists. The Supreme Court at that time was not willing to go as far as our present Supreme Court, and reversed the conviction on the grounds that the evidence did not show that Herndon was "presently" about to overthrow the Government. The Court did not question the right of the State of Georgia to legislate in that field, but last year the present Supreme Court held that the laws of Pennsylvania were void, because the Federal Government had preempted the field. This Congress has done nothing about that. I am aware that the President has said that civil-rights legislation is No. 1. in his book. I think laws giving the States the right of self-protection, and laws allowing the discharge of Communists in Government work are far more important. I am ready to work with you and this Congress to the end that our country can resist and repudiate those who would destroy us.

I ask you not to pass any more civil rights legislation. Our burdens are already heavy. This proposed legislation will not ameliorate, but will only wound. We are happy in the South and we are united. We do not know the prejudice that evidently exists in some other sections, but we are not any different from the people of other sections. We will become prejudiced if treated unjustly or forced to wear a yoke more burdensome than we can bear. We have no quarrel with anyone whomsoever that takes pride in his race. We defend that right. All that we ask of anyone is to let us have the same pride in our race. We have never advocated defying courts. We never will. But within the law, somehow, some way, we believe in partnership with God. We will maintain our racial integrity, and those who would destroy it, come what may, will realize that they did not accomplish their purpose. This is the most serious test the white race has ever faced. I tell you again, the white race will win.

The CHAIRMAN. We have with us the distinguished attorney general from Tennessee, from Nashville, the Honorable George F. McCanless.

Mr. FORRESTER. Mr. Chairman, will you indulge me just 1 minute? Our distinguished colleague, Hon. James Frazier, wanted to have the privilege of presenting that distinguished gentleman who is going to testify, but he is not here, and he gave me that happy privilege.

I just want to say that Congressman Frazier recommends this gentleman both as a gentleman and as a scholar, one who is deeply learned in the law, and one who has a reputation for both logic and commonsense. He is a graduate of Vanderbilt University, was chancellor of the 13th chancelry division of the State of Tennessee, commissioner of finance and taxation of Tennessee, and is the present attorney general of the sovereign State of Tennessee, having commenced that service in September 1954. I am delighted to present the attorney general of Tennessee, the Honorable George F. McCanless.

STATEMENT OF HON. GEORGE F. McCANLESS, ATTORNEY GENERAL OF THE STATE OF TENNESSEE, NASHVILLE, TENN.

Mr. McCANLESS. Thank you so much, Congressman Forrester.

The CHAIRMAN. We will be happy to hear you.

Mr. McCANLESS. Mr. Chairman, and gentlemen of the committee, my name is George F. McCanless. I am attorney general of Tennessee, and I am here at my own request, which the distinguished chairman so kindly granted, to express my views about the legislation now under study, generally referred to as the civil rights bills, and officially designated H. R. 1151 and H. R. 2145.

I am opposed to this legislation because it is not needed and its enactment would unjustly reflect discredit upon the people and governments of our States, because it would result in further invasion of areas of government that properly belong to the States. Because it would establish and set in motion an inquisition that could accomplish nothing except to intensify distrust and misunderstanding. Because it would grant to the Attorney General of the United States the power to sue individuals on behalf of other individuals and to use the writ of injunction as a means of intimidation. And because it will alienate the very people whose good sense and good will is necessary to a fair and reasonable solution of the problems of race relations in our country.

The distrust of State governments, of State law, and of State judicial processes which are to say the least implicit in both these bills are not deserved so far as my own State is concerned. Tennessee's constitution is outstanding for the protection it affords the individual in the enjoyment of his personal rights and privileges. Some of its provisions are almost literal translations of passages of the Magna Carta and are cherished as being our most sacred guaranties of liberty.

To implement these our general assembly has enacted statutes, some of them now very old, that themselves stand as evidence of the fact that Tennesseans love freedom and intend that all within the State's jurisdiction shall forever enjoy it. It may be of interest to the committee to know that sections 39.2801 to 39.2805 inclusive of our code prohibit persons to go about in disguise for the purpose of terrifying and injuring other persons and destroying property, and if a disguised person assaults another with a deadly weapon, he commits a felony punishable by death.

Tennessee's justice is as evenhanded as human justice can be, and before the law and in practice as well as in theory all men stand equal. Assuming, though the proposition is not free from doubt by any means, that all the provisions of these bills are constitutional, it does not follow that they should be enacted into law. The legislative power, with few exceptions, is permissive power to be exercised deliberately and with restraint and within such constitutional limitations as may be prescribed. Reserving, as they do, all power not delegated to the United States by the Constitution, the States and their respective people enjoy a preferred position in legislation that should be but not always has been respected by the Congress. The sovereignty of the States all too often has been invaded by the exercise of Federal power when the State should have been left to act or not to act as might have seemed best to their legislative bodies.

In this instance, the Congress will perform its best service if it will leave to the several legislatures with their understanding of the local situations the discretion to adopt such laws as shall seem to them to be just and necessary. A great need of our country is the exercise of more, not fewer, rights by our States.

It is unfortunate but it is true, nevertheless, that there now exists more tensions between the white and colored races than has existed heretofore for many years. It is to the credit of members of both races, however, that there has been little disorder. But if a Civil Rights Commission should be created whose function it would be to hear testimony and report concerning acts of racial discrimination, it would follow inevitably that there would be an increase in the tension and a worsening of the condition that so badly needs to be improved. Such a commission would hear much impassioned testimony of discrimination, all of which would be given the greatest publicity and the record of isolated instances of imposition would be made to appear to be a vast conspiracy of southern white people against southern Negroes. This would be a distorted picture of the situation certainly, but it would have a damaging effect and would endanger the peace of communities. The situation is deadly and it should not be dealt with carelessly.

The Attorney General urges that the Congress confer upon him the authority to institute civil suits in the courts of the United States in the name of the United States, but for the benefit of the real parties in interest, for the redress and prevention of violation of civil rights. The authority to apply for writs of injunction is included in the bill now before the committee, and there is a provision that the Attorney General has asked for specifically.

As now drafted the bills would authorize the Attorney General to institute a class action and under general allegation of widespread violations of civil rights obtain an injunction applicable to all communities. The language of the bills does not exclude mandatory injunctions, so the power to coerce is one of the powers that would be granted by this legislation. Such power is too great to be conferred. The mere conferring of it is a violation, or would be a violation, of freedom. This provision should not be allowed to become law.

The relations between the white people and colored people are strained. There is not now that ease in the contacts between the members of the two races and especially those who are strangers to each other that formerly characterized such contacts. Assuming the risk that goes with generalization, I should say that Negroes and white people are more suspicious of each other than they used to be and maybe a little bit afraid of each other now. But the old friendships remain largely, and there is much good will left to us; for the most part, the members of both races are people who are well disposed, people of good will. They are not the people who have to be compelled by any law to do the right, the charitable, act. It is with these good people, white and colored, that the solution to today's difficulties rests.

Offend or seek to coerce any appreciable number of them, and the day of solution is postponed and the solution itself imperiled. If the Congress can be satisfied to leave unamended for the present at least the already adequate civil-rights laws now in effect, and to leave to the States and to the people the handling of a situation that if left alone they can and will be best served. Thank you.

The CHAIRMAN. Mr. McCanless, I want to compliment you on your very temperate, calm, but very wise presentation.

Mr. MCCANLESS. Thank you, Mr. Chairman.

Mr. ROGERS. May I ask a question or two?

Mr. MCCANLESS. Yes, Mr. Rogers.

Mr. ROGERS. As I understand in your statement you say on page 2:

Tennessee's constitution is outstanding in the protection it affords the individual in his personal rights and privileges.

Mr. MCCANLESS. Yes, sir.

Mr. ROGERS. We have seen a great deal in the newspapers recently of an instance down in your State at Clinton, Tenn.

Mr. MCCANLESS. Yes, sir.

Mr. ROGERS. As I understand that matter, an application was made to the Federal court to enjoin members of the school board against segregation, and the court entered an order. Do the laws of Tennessee permit segregation in the schools contrary to the Supreme Court decision?

Mr. MCCANLESS. The constitution and statutes of Tennessee do provide for segregation of the races. The Supreme Court of Tennessee last September or October held that the rule of *Brown* v. *Board of Education* was applicable to Tennessee, and that under the supremacy clause of the Federal Constitution our State constitution had to yield to the interpretation of the Federal Constitution by the United States Supreme Court.

Mr. ROGERS. Then your own supreme court held that the statutes and constitution of the State of Tennessee would have to yield.

Mr. MCCANLESS. That is a fundamental principle of constitutional law, I believe.

Mr. ROGERS. Yes, but has the State legislature taken any plans to repeal that statute that you know of?

Mr. MCCANLESS. No, sir; it has not.

Mr. ROGERS. As I understand it, after this order was entered, the school board at Clinton, Tenn., told the Federal judge that it couldn't maintain order here and still carry out your direction, with the result that the Federal judge, according to the testimony, appealed to the Attorney General of the United States, and he sent the FBI down there. They went down and arrested 16 people who were not parties to this injunction, and who are now being held under bail before the court for contempt of that injunction.

The question I would like to ask you is whether or not it is better to have law enforcement of the Supreme Court decision by injunction, or is it better to have it through the statutes of the State and the constitution of the State? Which would be the more orderly procedure, in your opinion?

Mr. MCCANLESS. Mr. Rogers, you have given me information about Clinton proceedings which I of my own knowledge do not have. I do know that this occurred: There was a final judgment of the district court of the United States on remand from the United States Court of Appeals for the Sixth Circuit (which had reversed the district court) requiring that Negroes be admitted to the Clinton high school last September.

Mr. ROGERS. Yes.

Mr. MCCANLESS. There was, as you remember, some disorder in Clinton about the 1st day of September and I was closely in touch

with that occurrence. There were a mob of people who insisted that the Negroes not be admitted, and they had taken over the town, practically. On the other hand, there were a group who were trying to preserve law and order. Those two forces met and the situation became very dangerous. At the invitation of Governor Clement, I, together with other State officials, attended a meeting in his home. Following the meeting, the Governor ordered elements of the highway patrol and later a contingent of the guard be sent to Clinton. Those forces stayed in Clinton about a week and restored order.

The Federal Government was not required to come into Clinton to restore order. The State forces did that, and our Governor did not hesitate to use the means at hand for that purpose.

The incident that you referred to when you asked me the question—I do not remember the date of it—occurred about 2 months ago.

Mr. ROGERS. It was the latter part of December or the first of January that the question was raised.

Mr. MCCANLESS. The time is not particularly important, of course. As I understand what happened, there were certain people in Clinton who were very much opposed to Negroes attending the high school. They were unpleasant to these Negro children and used, I suppose, threatening speech. They by no means took over the civil government of the town.

The members of the board of education, who themselves were under this injunction in the original suit, made representations to the Department of Justice, perhaps to the Attorney General. A copy of their telegram or letter appeared in the newspapers.

The Attorney General sent a telegram to Governor Clement and talked with him by telephone the day before the attachment of these 16 people. They were attached in a proceeding for contempt for violation of the injunction, though, as you have suggested, they were not parties to the suit.

There has been no adjudication of the contempt charges. I understand that recently the hearing which originally was set for hearing in January was postponed to a date not yet fixed.

I think it would be improper for me to express any opinion about the propriety of the action of Judge Robert L. Taylor, the United States district judge. Judge Taylor is an excellent judge, and he has not yet decided the case. There has been too much propaganda about his action already. He is going to do the right thing, I am confident, when the case comes before him for his final action.

Mr. ROGERS. Disregarding that particular one, but you as a lawyer and as attorney general of the State recognize that the school decision in which the Supreme Court made law in its interpretation of the 14th or 15th amendments of the Constitution of the United States, says that no school district can deny admission of people because of race, color, or creed, as intended by the Constitution. The problem that you will be confronted with as attorney general, and we as Members of Congress, is how to best deal with that decision. Is it proper for the Federal Government to enact legislation carrying it out that would be contrary to the Constitution of the State of Tennessee, or shall we proceed and have these people go into respective school districts and obtain an injunction in each school district?

What I am trying to find out is your thoughts of how to best meet a situation that has existed since the Supreme Court decision, whether

it is through Federal enactment to make that decision effective, or can and will the States carry it out without a Federal enactment?

Mr. McCANLESS. I appreciate your question and your motive for your asking it. I believe sincerely that it would be a great mistake for the Congress to enact any sort of enforcement legislation at this time. The Supreme Court of the United States, after all, went no further than to say in the Topeka case that no person may be denied entrance to a school solely on the ground of race. It certainly did not provide for compulsory integration.

Mr. ROGERS. That I recognize. But we do have, as in this instance—I think in Virginia they have, I believe, two cases—where the district court in conformity with that decision has enjoined the school board. The problem, as you and I know, this is judge-made law, so to speak, of their interpretation of the Constitution. They have stood fast on that decision since they rendered it in 1954. Some States have met it by saying any time that a Federal court issues an injunction against a school board, as it did in Tennessee, automatically the school board goes out of existence and they no longer have schools. That is the way some of them have met it. The thing that we are confronted with, as Members of Congress, is whether the Federal Government should take any step at all. As it has been explained to us, one of the objectives of this Commission is to make that kind of a study. Do you feel that if Congress did not take any action whatsoever, that eventually the States would work it out themselves, and if so, how long would it take?

Mr. McCANLESS. Mr. Rogers, I think that any legislation that the Congress may enact to force the issue—to force integration—will do much more harm than it can do good.

The incident at Clinton on the 1st of September did not result in the injury of or death of a single person or the destruction of property. But I can imagine, and it is not improbable, that there might be other disorders that would be destructive of life. I hope that the Congress will do nothing that will make such incidents more probable. I believe under present law the white people of the South and the colored people of the South will more likely work out the problem than if this legislation which is proposed should be enacted.

The CHAIRMAN. If the Congress should enact and declare a sort of moratorium, would the State of Tennessee repeal its segregation laws?

Mr. McCANLESS. The Supreme Court, Mr. Chairman, has held that the State laws have had to give way to the opinion of the Supreme Court. No, sir, I do not think the State will repeal its laws.

The CHAIRMAN. But as the matter is now you must attack the matter case by case. Every school board must be subject to some sort of court proceedings in the United States court. For example, if Tennessee would adopt a repealer, repealing the segregation laws, we would not be confronted by that rule of injunction case by case, and Congress might be inclined not to take any action and rather leave it to the States.

Mr. McCANLESS. Mr. Chairman, even if you enact a law, such as the bills that are now being considered, injunctions will have to be brought against school board after school board, if they are brought at all.

The CHAIRMAN. If your State and other States would give assurance that they would repeal their segregation statutes, and have

integration as far as the schools are concerned, there would be no need for Congress to step in.

Mr. McCANLESS. Mr. Chairman, I do not think that the majority of the colored people, and certainly the majority of the white people, want integration in the schools.

The CHAIRMAN. Your answer then is "No."

Mr. McCANLESS. Yes, sir. I do not think our general assembly is going to repeal any of its laws.

The CHAIRMAN. Then Tennessee would not repeal its statutes. Then in order to implement the Supreme Court decisions we must take some sort of action on the Federal level either through the courts, which involves rule by injunction primarily, or through the means of a statute such as the legislation that we have before us now.

Mr. McCANLESS. Mr. Chairman, I trust that the Congress will not be impatient with the people in my part of the country. Segregation has been a way of life for more than a century, and it should not be expected that it will disappear overnight, nor as the result of any action that Congress can take, because it is deeply ingrained in the mores of the people.

The CHAIRMAN. If I remember correctly, the 14th and 15th amendments were adopted around about 1860's.

Mr. McCANLESS. Something like that, Mr. Chairman.

The CHAIRMAN. That is a good many years ago.

Mr. McCANLESS. Our colored people have experienced great progress during the 85 years that have passed since then. They are still progressing with the help of the white people.

The CHAIRMAN. Are there any further questions? If not, thank you very much.

We have with us Mr. Abbitt, our distinguished colleague from Virginia, who desires to introduce two members of his State, Mr. John J. Wicker and Mr. Ernest Goodrich, of the Defenders of States Sovereignty and Individual Liberties of Richmond, Va.

Mr. ABBITT. Mr. Chairman, I deeply appreciate the high honor and privilege of being before your great Committee on the Judiciary again for the purpose of introducing the next two speakers. You have always been kind and generous and considerate in the committee, and we appreciate the fairness and consideration you have given our people in these hearings. We have with us today Hon. John J. Wicker, Jr., of Richmond, Va., a former State senator, an eminent attorney of some 42 years' experience at the bar. He has been one of the outstanding leaders in Virginia. He is former chairman of the judiciary committee of the Virginia State Bar Association. He is a member of the executive council of the insurance section of the American Bar Association. He is one of the founders of the American Legion, past commander of the Virginia Legion. He has been active in all movements in our great State for the good of the people. As I say, he is one of the outstanding attorneys and recognized as a constitutional attorney of note.

We have with him Hon. Ernest Goodrich, Commonwealth attorney of Surry County. I have known these two gentlemen practically all of my adult life. That might not be flattering to Mr. Goodrich, because I am older than he is. He is a splendid man. He is from my district. He has been a leader in our district. He served 4 years in World War II where he rendered great and outstanding and in-

valuable service to his country. He was attorney in the Labor Department from 1935 to 1939. He worked in labor relations in Washington for quite a while. He was here last year before the Senate Judiciary Committee on this same legislation. He taught constitutional law at the great College of William and Mary. He is an outstanding attorney, particularly in the constitution field in Virginia.

I take great pleasure in introducing these two gentlemen to this great subcommittee.

The CHAIRMAN. We welcome both this morning and we would be glad to hear from them.

STATEMENT OF JOHN J. WICKER, JR., AND ERNEST W. GOODRICH, DEFENDERS OF STATES SOVEREIGNTY AND INDIVIDUAL LIBERTIES

Mr. WICKER. Mr. Chairman and gentlemen of the committee, realizing how busy and crowded your schedule is, with your permission, if I may have my statement in full go in the record, I will try to expedite the matter some by not verbally delivering the entire text.

The CHAIRMAN. You shall have that right. We will place the entire statement in the record and you can highlight it as you go along.

Mr. WICKER. I would appreciate that.

(The statement follows:)

STATEMENT OF JOHN J. WICKER, JR., ATTORNEY AT LAW, RICHMOND, VA (FORMER VIRGINIA STATE SENATOR AND TEMPORARY CHAIRMAN OF THE 1945 CONSTITUTIONAL CONVENTION OF VIRGINIA)

INTRODUCTION

Mr. Chairman and gentlemen of the committee, my name is John J Wicker, Jr. I am an attorney at law, and for many years I have been a member of the bar of the Supreme Court of Appeals of Virginia, of the Federal courts in Virginia, and of the Supreme Court of the United States. I reside, as I have for most of my life, in Richmond, Va.

While I am here before you today at the suggestion and request of a number of Virginia citizens and organizations, my appearance is solely in my capacity as a citizen of the Commonwealth of Virginia and the United States of America, and not in any representative capacity whatsoever I wish it to be distinctly understood that I am not appearing here, directly or indirectly, in behalf of any of my clients or any of the various organizations with which I am affiliated. In other words, the views that I express here today are purely my own and do not necessarily reflect the views of any other individual or group whatsoever.

OPPOSED TO H. R 1151, 2141, ETC.

As a citizen I appear to express my opposition to H. R. 1151, H. R. 2141, and other certain so-called civil rights bills now pending before the House Committee on the Judiciary as follows:

NO NECESSITY SHOWN FOR PROPOSED CIVIL RIGHTS LEGISLATION

It is my understanding that in considering proposed legislation, two questions are always highly important First, is the proposed legislation necessary? Second, does the legislative body before which such legislation is pending have the right, as well as the power, to enact the proposed legislation?

Unless both of these questions are clearly and satisfactorily answered in the affirmative then the proposed legislation should fail. And I conceive it to be the duty and burden of the proponents of legislation to establish both the necessity and the constitutional propriety of proposed legislation.

I believe I have read practically all of the available testimony given last year on similar proposed legislation before both the House Committee on the Judiciary

and the Senate Committee on the Judiciary. The testimony thus far this year in favor of the pending legislation is substantially similar to that given last year. Analysis of this testimony will lead, I believe, inescapably to the conclusion that the proponents of this pending legislation have failed to adduce any satisfactory evidence or proof whatever as to the necessity of these proposals; and they have also failed to prove that the Congress has any right to enact legislation which would not only still further encroach upon the jurisdiction and rights of the several States, but also would in practice and effect deprive citizens of their fundamental right to trial by jury whenever the Attorney General, or someone acting for him, desired to do so.

ATTORNEY GENERAL'S TESTIMONY NEGATIVES NECESSITY

The best examples of the failure of proof of necessity for this proposed legislation are to be found in the testimony of the Attorney General of the United States in connection with this legislation. For example, the principal reason advanced by the Attorney General for the creation of a Federal Civil Rights Commission was a quotation from President Eisenhower's 1956 state of the Union message in which the President said:

"It is disturbing that in some localities allegations persists that Negro citizens are being deprived of their right to vote and are likewise being subjected to unwarranted economic pressures."

Now there are over a quarter million localities in these United States. Yet the principal basis for setting up a new Federal bureaucracy which would spread its powerful pressures all over the Nation—not like the creeping socialism which we have heard a lot about, but more like a form of galloping paralysis, appears to consist of mere allegations that Negro citizens are being unfairly or unlawfully treated, merely in some localities, not in any widespread area or in any considerable number of localities.

On this flimsy ground of mere allegations, the Attorney General favors saddling upon the entire Nation the mental, spiritual, and financial burden of a new national Commission operating independently all over the Nation; applying its inquisitions and intimidations whenever and wherever it chose; dragging citizens away from their homes and businesses at any time and for any distance and to any place the new Commission desired, upon the compelling force of subpenas; merely to investigate whether and to what extent these allegations are well founded and to try and bring about correction of any conditions the Commission determines to be civil rights violations.

The utter lack of necessity for the creation of any such Civil Rights Commission as is contemplated in this pending legislation is shown by the testimony of the Attorney General himself.

While dealing with another portion of this legislation, the Attorney General stated that in a recent case the United States Supreme Court had denounced systematic discrimination against Negroes in the selection of jury panels in Mississippi and that the Department of Justice thereupon had instituted an investigation. Although the Attorney General said that "according to the undisputed evidence in the record before it" (the court) "systematic discrimination against Negroes in the selection of jury panels had persisted for many years past in the county where the case had been tried": nevertheless the Attorney General admitted that the investigation by the Department of Justice "showed that, whatever the practice may have been during the earlier years with which the Supreme Court's record was concerned, in recent years there had been no discrimination against Negroes in the selection of juries in that county."

Now, if the Department of Justice can proceed, by inquiry and investigation, as it did in this case, to determine that the unfair, discriminatory condition denounced in a recent decision of the United States Supreme Court no longer exists, and can do this without any new legislation and without the setting up of any new national Civil Rights Commission, why cannot the Department of Justice institute and conduct a similar investigation to ascertain whether or not "the disturbing allegations" mentioned in the President's state of the Union message are founded upon fact or are without foundation, or refer to conditions which may have formerly existed, but which do not actually exist any longer?

Even if conditions in the field of Negro voting were such as to indicate the need for some remedial action or investigation, why should the Congress set up a new and independent national Commission, clothed with vast inquisitorial authority and vested with the power to be autocratic, intimidating and oppressive, and necessarily involving the addition of a great horde of Federal investigators,

agents, examiners, etc., at great expense to the already heavily burdened taxpayers?

There are many other fields of daily life of just as much and just as vital concern to the national and individual welfare which need investigation and remedial action far more Yet the proposed legislation does not propose setting up any national Commission to operate in these other areas The safety of persons in their ordinary daily pursuits is certainly just as important as the right to vote.

Robberies and holdups, planned and executed on an interstate basis, accompanied by violence and extreme brutalities, are taking place in ever increasing numbers, not just "in some localities" but in a large number of areas, North, South, East and West all over the United States

Right here in the Nation's Capital all of you know it is exceedingly dangerous to use the public streets in many sections of the city at any time of night and even sometimes in broad daylight Gang warfare and teen-age hoodlumism, operating across State lines, take their toll of human life and property—frequently including many innocent bystanders—in practically all of the large cities of our Nation, and in some of the smaller places, too.

The enslavement of large numbers of our young people, beginning even in their youthful public school days, by the poisonous narcotic drug traffic organized and directed nationally, constitutes a serious menace to the very foundations of our national life

These are just a few areas in which there is far more reason to be disturbed by allegations than in the matter of Negro voting. Some of these matters have engaged the intelligent attention of various congressional committees from time to time, and these congressional committees, composed of duly elected representatives of the people, have accomplished much good. But here we have a proposal for the creation of a brand new independent national Commission to investigate merely one area in which there are allegations

ATTORNEY GENERAL'S PRESENT AUTHORITY SUFFICIENT

The proposed legislation would give congressional approval and special authorization for the appointment of a special Assistant Attorney General to direct the activities of a Civil Rights Division in the Department of Justice, in both the criminal field and the civil field. I submit that there is no necessity whatever for this legislation.

In his statement before both the House committee and Senate committee last year, the Attorney General frankly stated that the Department of Justice had been operating a Civil Rights Section ever since 1939, but that "the noncriminal activity of the Department in the civil rights field is constantly increasing in importance, as well as in amount." Accordingly, the Attorney General feels that "the Department's civil rights activities, both criminal and noncriminal" (should) "be consolidated in a single organization." And he thinks that in order to bring this about a new Assistant Attorney General should be authorized by Congress.

If it is proper for the Department of Justice to busy itself in the civil field of civil rights (as the Attorney General admitted the Department had actually done in some cases) then he can certainly reshuffle his organization and personnel and designate one of his assistants to direct the activities of the Department, both in the civil and criminal phases of civil rights.

In his testimony before the Senate committee, the Attorney General was questioned rather pointedly on this proposed new Civil Rights Division in the Department of Justice and the proposed new Assistant Attorney General to be in charge thereof. And he admitted that he already had authority to assign civil rights enforcement duties to any of the Assistant Attorneys General already authorized and serving under him. As he testified:

" * * * the act, under which the Department of Justice is set up, does not specify any particular duties for any Assistant Attorney General."

One reason for the proposal is found in his testimony that the passage of any such legislation would be followed "almost automatically" by increased appropriations for the Department of Justice. Another reason is shown by the testimony of the Attorney General before the House committee in which it was pointed out that the main reasons for special authorization of an Assistant Attorney General in charge of civil rights was "to give emphasis and prestige in the enforcement of civil rights."

The Attorney General also said that if this legislation was passed, the activities of the Department of Justice would not only be greatly broadened but greatly increased in volume, as well as in scope. That was just a very euphonious

way of saying that if this legislation is passed, then the Federal Department of Justice will encroach still further into the daily lives of our people in practically every State, especially the Southern States, of course, and will extinguish, by mere force and volume and power, even more of the safeguards and rights of the citizens to local government in local State affairs.

PROPOSED LEGISLATION FRAUGHT WITH DANGEROUS POSSIBILITIES

With the prestige of congressional approval, the Department of Justice would undoubtedly "move in" in various States wherever and whenever the Attorney General thought it to be advisable from any standpoint. And he could subject the governments of those States and the governments of municipalities and counties, and the officials and citizens thereof to intimidations and powerful pressures against which there could be no redress

In fact, the situation could be very much like that which occurs when a surging flooding river overflows its banks and breaks over or through whatever levees may be set up to contain it within its proper bounds and spreads, with devastating force and volume, over many areas which it is not supposed to invade. And even after its muddy tide has receded, great damage has already been done and cannot be undone. So it would be in this case.

If the Department of Justice under a politically minded Attorney General should be armed with congressional authorization and sanction and blessing for this new Civil Rights Division, presided over by a new Assistant Attorney General, he could invade any State or any locality he chose at any time he chose upon any "allegations," no matter from what source they came or how flimsy they were. An he could do this at such times and in such manner as to intimidate the officials and citizens of such States and localities and interfere with them, unjustly and unfairly, in the ordinary exercise of their constitutional and lawful rights.

And against this arbitrary and oppressive action, all of which would be paid for by the whole taxpayers of the United States, the victimized States and localities and officials and citizens would have no redress whatsoever. Perhaps after long and protracted litigation they might be able to drive the intruder back but, as in the case of a receding flood, the damage would already have been done.

Please understand that I do not charge that the present Attorney General would actually and consciously exercise these powers and this new prestige in the oppressive and unfair manner indicated; but I do say that if this legislation were to be passed, then you would be placing these powers in his hands.

And I do not believe that the record and the public expressions of the Attorney General give any indication that he would be either cautious or moderate in his approach or in his use of this power if he is vested with congressional sanction, approval and prestige by this legislation.

PROPOSED LEGISLATION WOULD FAVOR INTERRACIAL MARRIAGES, ETC.

In its preamble, one of the most important of these so-called civil rights bills (H. R. 2145) endorses and promises to secure "certain rights" included in the United Nations Declaration of Human Rights.

It will be surprising and shocking to the American public to learn that this pending legislation, through its endorsement of this international declaration, would put the Congress of the United States on record as declaring that all adult persons in the United States have a right to engage in interracial marriages (art. 16); and a right to seek and impart information "through any media and regardless of frontiers" (art. 19); and a right to have any religion they choose and to "manifest" their "religion or belief" in "teaching, practice, worship and observance" (art. 18).

And this so-called civil rights legislation would pledge the United States to secure these so-called rights.

From our earliest time, the right of the several States to prohibit interracial marriages within their respective borders has been fully recognized. This so-called civil rights legislation seeks to destroy that time-honored and long-established State right.

Not long ago the United States Government executed the Rosenbergs for imparting information "regardless of frontiers." If this pending legislation had been in effect it would have helped to thwart and frustrate the prosecution

and punishment of those traitors. If it is enacted now, it will be in conflict with our Federal laws against espionage.

In some parts of our country, until some years ago, polygamy was recognized as a part of a religion which thousands of Americans believed in and practiced. This so-called civil rights legislation would be derogative of our antipolygamy laws.

Moreover, even today, there are some groups of American citizens whose conscientious religious beliefs sanction voluntary bodily disfigurement and even sacrificial deaths as an important part of the observance of their religion. This so-called civil rights legislation would endorse the so-called rights of individuals to engage in such religious practices.

The foregoing is illustrative of some of the many dangers involved in this so-called civil rights legislation.

DEPRIVING CITIZENS OF RIGHT TO JURY

We come now to some of the most dangerous and objectionable of all the proposals which would have the effect of enabling the Attorney General, through the Department of Justice, to institute and conduct civil actions and proceedings in Federal courts all over the United States in the name of the United States of America, but really for the private and personal benefit of whatever individuals the Attorney General might choose to recognize or prefer. And he could do this whenever those individuals allege that any other person has "engaged or is about to engage in any act or practice" which would deprive the complaining individual of his free and untrammeled right to vote for or against candidates of his own choice for Federal office.

These bills would also have the effect of enabling the Attorney General, in whatever location and in whatever cases apparently involving civil voting rights he chose to recognize, to deprive the defendant or defendants of the fundamental right to trial by jury. These bills would also be bypassing and practically nullifying proceedings in State courts and other State tribunals now authorized to deal with present or threatened invasion of the civil rights of individuals.

All of these effects would do serious damage to our constitutional system of government, and would place in the hands of the Federal Department of Justice, the power to inflict intolerable burden and expense upon individual citizens throughout the Nation and to intimidate State and local officials.

And, in a practical even though perhaps not in a narrow technical legal sense, they would authorize judicial conviction of violation of law, or of intent to violate law, without affording the accused the fundamental right of trial by jury.

In his testimony, the Attorney General told of how the Department of Justice had intervened in a civil suit in Arkansas in a school board case, which was a civil proceeding for an injunction. Likewise, as already noted, the Attorney General testified that the Department of Justice had instituted and conducted an inquiry and investigation in the voting conditions in Mississippi. No doubt the Department of Justice has busied itself in other States and other localities in various civil proceedings having to do with civil rights. All of this has been done under the present laws and without the specific sanction and approval and blessing of any such congressional enactments as the Attorney General now advocates. This further illustrates the fact that there is no real necessity for this proposed legislation.

PROPOSED CIVIL PROCEEDINGS OFFENSIVE AS CRIMINAL PROCEEDINGS

But the Attorney General insists that any activities of the Department of Justice in these matters which might lead to some criminal prosecution would inevitably "stir up such dissension and ill will in the State that it might very well" (do) "more harm than good"

The Attorney General seems to feel that State and local officials and local citizens would resent any Federal activity that might lead to criminal prosecution, but that they would not experience any similar resentment or ill will if such Federal activities were directed along the line of investigations and inquiries leading to the institution and conduct of civil proceedings and injunctions coupled with the threat of punishment by fine, or imprisonment or both, for contempt of court in the event of failure to respect such injunctions.

Such reasoning seems very queer and unrealistic to me.

In fact, I believe that the average State and local official and local citizen would prefer that the issue of his guilt or innocence be determined, after investi-

gation, by customary procedure where he is not only confronted by his accusers but where he has the constitutional safeguard of a trial by jury of his peers.

Instead, the Attorney General wants to have a Federal judge, sitting without benefit of a jury, determine either that defendants had been guilty of the alleged law violations in the past, or that they were about to commit these law violations in the immediate future. The humiliation and worry and trouble and expense to the defendants would be just as great, and perhaps greater, on such civil proceedings. But they would not have the protection that every accused deserves in the form of a trial by jury.

The Attorney General argues that these civil proceedings could be accomplished "without having to subject State officials to the indignity, hazards, and personal expense of a criminal prosecution in the courts of the United States.

State officials charged in a civil proceeding, either with past violations of law or with determination to violate the law in the future, and dragged into the Federal courts by the Department of Justice and subjected to long drawn out civil proceedings (in which no "speedy trial" is constitutionally guaranteed, and in which no jury is assured) would be subjected to just as much "indignity, hazards, and personal expense" as in a criminal prosecution, and perhaps even more.

CONCENTRATING ON ELECTION RIGHTS

The Attorney General argues that while the present statute (sec. 241, title 18, U. S. C.) "makes it unlawful for two or more persons to conspire" against the exercise of civil rights by another, the statute fails to "penalize such an injury when it was committed by a single individual * * *."

However, in his testimony I do not believe the Attorney General referred to another statute, of equal dignity (sec. 594, title 18, U. S. C.) which makes it a crime for any one person to intimidate or threaten or coerce, or attempt to intimidate, threaten or coerce any other person for the purpose of interfering with such other person's right to vote for or against any candidate for Federal office.

While it is true that this latter statute refers only to civil rights in connection with voting, at the same time it is also true that the Attorney General's testimony indicated very strongly that the principal interest of the Department of Justice in legislation at this time is confined practically to the matter of voting and elections. In fact, in his testimony he conceded that there is really no necessity for any sort of antilynching legislation, especially since no lynchings had occurred in the United States since 1951.

Furthermore, in response to suggestions from the House committee chairman that he might comment upon "certain other proposals relating to civil rights now pending before the committee" (involving amendments to the "two principal criminal statutes intended for the protection of civil rights") the Attorney General testified last year that "there is grave doubt as to whether it is wise to propose at the present time any further extension of the criminal law into this extraordinarily sensitive and delicate area of civil rights."

ADDITIONAL UNTOLD BURDEN ON TAXPAYERS

In the testimony of the Attorney General, no attempt has been made to estimate the size or extent of the financial burden which would necessarily be involved, if these proposals are enacted into law, by the creation of a new and enlarged division in the Department of Justice, and the authorization of the Attorney General to become the Government-paid attorney for whatever complainants he chose to recognize in the vague field of civil rights.

Any one acquainted with government, as you gentlemen are, will recognize the fact that the burden will not be small or inconsequential. Nor would it diminish as time went on, but instead it would spread and grow with the speed and fertility of noxious weeds.

For example, when questioned by the chairman of the House committee as to the expenses of the proposed Civil Rights Commission, the Attorney General testified that supplemental appropriations to cover new expenses "would follow almost automatically, I think, if the Congress authorized it * * *. If this Commission is authorized and the new division is authorized in the Department of Justice, it would be immediately followed by an appropriation."

EMPOWERS ATTORNEY GENERAL TO "PUNISH" OFFICIALS AND CITIZENS WHO OPPOSE SCHOOL RACIAL MIXTURES

Mr Chairman, the more I have studied this matter and the more I have thought about it, the more convinced I have become that there is a great deal more to these proposals of the Attorney General than meets either the naked eye or the legislative eye.

In my opinion, the enactment of this proposed legislation, as advocated by the Attorney General, would result in the serious evils and grave injustices to which I have alluded. It would also eventually empower the Department of Justice to harass and intimidate and burden and punish citizens who believe that the Supreme Court of the United States went beyond its own lawful powers and usurped legislative prerogatives and encroached unconstitutionally upon the reserved rights of the States when it declared that public education of Negro children and white children in separate schools was unconstitutional

By the same sort of devious reasoning exhibited in his testimony concerning this legislation, the Attorney General, if vested with the powers and prerogatives sought in this legislation, could very well conclude that the State officials and local officials and private citizens who did anything to preserve segregation in areas where there will not be any public education without segregation, were guilty of conspiring to deprive, or attempting to deprive, Negroes in their localities of some sort of so-called civil rights

In the public school cases decided in 1954, it was clearly pointed out in the able brief of the Attorney General of Virginia and his associate counsel, that Senator Trumbull, of Illinois, the leading sponsor of the 14th amendment and one of the leading sponsors of the Civil Rights Acts of 1866 and 1875, flatly declared—

"* * * the right to go to school is not a civil right and never was" (Congressional Globe, 42d Cong., 2d sess., p 3189)

It was also pointed out in the same brief that the congressional framers and sponsors of the 14th amendment and the legislatures of the States that ratified it were all agreed that public-school education was not within the purview of the amendment Nevertheless, the Supreme Court, in its 1954 decision, blandly disregarded these cogent arguments and historical facts

Consequently there can be no assurance that the Supreme Court, as constituted at present, would attach any weight to the declared intentions of the sponsors of this proposed legislation Therefore, if this legislation is enacted, and the Attorney General then chose to file proceedings against State and local officials, school board officials, officers and active members of various citizens groups, who believe that the Supreme Court's public-school decision was unconstitutional and who, accordingly are unwilling to establish and maintain a mixture of races in their public schools, in all likelihood the Attorney General would be upheld by the Supreme Court Such proceedings could result in mandatory and injunctive decrees by Federal courts followed by fine and imprisonment upon failure to comply therewith

Some may think that these forebodings are farfetched, and that the Attorney General, if this legislation is passed, would not take such advantage of the situation and take such extreme measures But I reply that whenever any court of last resort can completely ignore the plain provisions of the 10th amendment to the Constitution of the United States while giving to the 14th amendment a meaning completely contrary to the demonstrated intentions and opinions and belief of the Congress which proposed it and the States which ratified it, as was done by our Supreme Court in the public-school decisions, then there is no fearsome consequence beyond the realm of reasonable possibility.

JEFFERSON'S PROTESTS AGAINST ENCROACHMENTS

If, perchance, anything that I have said about the tendency of the present Supreme Court to usurp the rights of Congress and to ignore the constitutionally reserved rights of the States appears to be somewhat harsh, let me remind you of the opinions expressed over a century ago by one of the greatest Americans of all time Commenting upon the encroachments upon States rights by the Supreme Court and as to how they might be checked, he said:

"By reason and argument? * * * You might as well reason and argue with the marble columns encircling them * * *"

Renouncing the use of force, he advocated that the States should "denounce the acts of usurpation until their accumulation shall overweigh that of separation." That was the opinion expressed by Thomas Jefferson, author of the

Declaration of Independence, in his letter to Giles, December 26, 1825. (See Beveridge's Life of John Marshall, vol. 4, pp. 38–39.)

So, in my opinion of the extreme lengths to which the Supreme Court seems willing to go in violation of the constitutionally reserved rights of States, I find myself in excellent company.

Of course, it may be argued that I am seeing a lot of fanciful situations and that the Department of Justice would not go to any such extremes under any circumstances, and, if it did, that the Supreme Court certainly would not fail to interfere. Unfortunately, however, the recent decisions of the Supreme Court have shaken public confidence, and in many areas destroyed public confidence in any assurance that States rights will be protected.

We often hear it said that "the decision of the Supreme Court is the supreme law of the land." I do not believe that is always true.

Suppose the Supreme Court decided that New York State lawfully elected 100 persons to the United States Senate on the ground that New York's tremendous population entitled the State more Senators than other States. Such a decision could be based upon reasoning no more unreasonable and no more illogical than that which the Court used in its May 17, 1954, public-school decision. In such event, I do not believe the Congressmen and Senators from the other States would regard that decision, even if unanimously rendered, as the supreme law of the land.

During the Virginia Constitutional Convention of 1788, John Marshall, in replying to Mason's argument about possible encroachment by Federal courts, replied that any such idea was "absurd." Then he said:

"Has the Government of the United States power to make laws on every subject? * * * Laws affecting the mode of transferring property, or contracts, or claims between citizens of the same State? Can Congress go beyond the delegated powers? Certainly not If they were to make a law not warranted by any of the powers enumerated, it would be considered by the National Judges as an infringement of the Constitution which they are to guard. They would not consider any such law as coming under their jurisdiction. They would declare it void."

Obviously, the man who was later to become the great Chief Justice never had the slightest thought that in later years the Supreme Court would not only fail to protect the separate sovereign States from encroachment on their reserved powers but would actually become the active executioner of those powers.

WHY HAVE THE ATTORNEY GENERAL AND THE ADMINISTRATION BECOME SUCH ACTIVE SUPPORTERS?

During the testimony of the Attorney General before the Senate Committee on the Judiciary on May 16, 1956, it was brought out that at various times in 1955 the late Senator Kilgore, as chairman of that committee, and Senator Hennings, as chairman of the Senate Civil Rights Subcommittee, had repeatedly sought to obtain the cooperation of the Department of Justice in connection with several civil rights bills covering practically the same ground as those to which I have specifically alluded. The testimony further brought out that all of the efforts of these distinguished Senators to obtain cooperation from the Attorney General or the Department of Justice in these matters were unsuccessful. It was further brought out that in connection with those bills, the distinguished Senators were unable to obtain from the Department of Justice either support or recommendation, or, in several instances, even the courtesy of a reply to their official letters.

However, in the spring of 1956, with dramatic fanfare of publicity broadcast all over the Nation, the Attorney General proclaimed that, in keeping with a White House announcement, an administration program of civil-rights legislation would soon be placed before the Congress. The Attorney General's announcement was followed by the introduction of these so-called new bills which were substantially the same as the old bills.

Significantly enough the old bills, on which no cooperation had been obtained from the Department of Justice, were introduced in 1955 when there was no big national election; while the new bills proclaimed and acclaimed by the Attorney General and the administration were introduced in 1956, just a little over 6 months prior to the national election.

No doubt, some skeptical or cynical people might possibly suspect from this that the active and fervent support given to these new civil-rights bills by the Attorney General and the administration was, and is, actuated or inspired, in

someway or other, by political motives. But, of course, I would not be so unkind as to intimate any such evil thing.

I do not question nor impugn the motives or intentions of the sponsors or patrons of this proposed legislation. At the same time I must point out that the all-important thing is the possible or probable result or effect of this proposed legislation.

If a mule (or an elephant, if you please) kicks you in the face, the results and effects are mighty bad even though he may have had the kindliest motives and have been kicking you simply as a friendly gesture.

EFFECTS SERIOUSLY DAMAGING REGARDLESS OF MOTIVES

No matter how high and noble and honest the motives and intentions of this proposed legislation's sponsors and advocates may be, the fact remains—in my opinion and in the opinion of a large number of other citizens—that the results and effects of this legislation, if enacted into law, would be seriously and irreparably damaging to the constitutional rights of the States and of their governments, and of many of their officials and citizens.

For the reasons I have already indicated, therefore, I sincerely trust that this proposed legislation will meet with the defeat that it richly deserves.

Mr. WICKER. Mr. Chairman and gentlemen of the committee, my name is John J. Wicker, Jr. I am an attorney at law, and for many years I have been a member of the bar of the Supreme Court of Appeals of Virginia, of the Federal courts of Virginia, and of the Supreme Court of the United States.

I appreciate very much the kind references made to me by my good friend, Congressman Abbitt. I reside, as I have for most of my life, in Richmond, Va. I want to make it clear, since Congressman Abbitt mentioned some of the organizations with which I am connected and affiliated, that the statements I make here today are made purely in my capacity as a citizen of the Commonwealth of Virginia, and not in a representative capacity, and do not necessarily reflect the views of any of my clients or organizations with which I am connected.

I appear here in opposition to these so-called civil-rights bills. I believe I have read most of the testimony that was available in the hearings last year before this committee and the Senate committee. I believe that the testimony thus far this year is substantially similar on both to the testimony of last year.

I think an analysis of this testimony leads inescapably to two conclusions. First of all, that the proponents, who have the burden of proof certainly have not proven any real necessity for this legislation, and secondly, that they have not proven that Congress has a constitutional right to enact legislation which would still further encroach on the jurisdiction and rights of the several States, and would also in practice and in effect, deprive citizens of their fundamental right to trial by jury whenever the Attorney General of the United States or someone acting for him desired to do so.

Some of the best examples of the lack of necessity and the evil of this proposed legislation are found in the Attorney General's testimony. I will advert to 2 or 3 items. I have covered them more fully in my prepared statement.

Last year his chief reason was a quotation from President Eisenhower's 1956 state of the Union message, as follows:

It is disturbing that in some localities allegations persist that Negro citizens are being deprived of their right to vote and are likewise being subjected to unwarranted economic pressures.

Mr. Chairman, there are over a quarter million localities in the United States, and yet the principal basis for setting up this new

Federal bureaucracy is a mere allegation that some citizens in some localities are being deprived in some vague way of some rights. If they set up this bureaucracy it will not be like the creeping socialism we have heard a lot about, but more like a form of galloping paralysis.

On this ground there would be set up a vast bureaucracy in the form of a new national commission operating independently all over the Nation, applying its intimidations and inquisitions wherever it chose, dragging the citizens from their homes at any time and to any place where the Commission desired, on the compelling force of subpenas, to investigate to what extent these allegations are well founded, and to try and bring about correction of any conditions the Commission determines to be civil-rights violations.

The utter lack of necessity for the creation of any such Civil Rights Commission as is contemplated in this pending legislation is shown by the testimony of the Attorney General himself.

While dealing with another part of the legislation, the Attorney General stated that the United States Supreme Court, in a decision which was then recent, had said that Negro citizens were being discriminated against in the selection of jury panels. So the Attorney General said he instituted an investigation right away and he admitted that although the court records said that the evidence was undisputed, yet the Attorney General admitted that his investigation—

showed that whatever the practices may have been during the earlier years with which the Supreme Court's record was concerned, in recent years there had been no discrimination against Negroes in the selection of juries in that county.

Now if the Attorney General and the Department of Justice, under existing legislation, can conduct that investigation which it did and determined that these allegations, even allegations found in a decision of the United States Supreme Court, were unfounded, certainly as to the present time, then why can't they do the same thing wherever it may be necessary, without any further legislation?

If we are going to set up a commission wherever it appears from allegations or otherwise that rights of citizens are being violated, and they are being discriminated against and that their fundamental constitutional rights are being invaded, there are many other fields you can go into. Robberies and holdups are being planned and executed on an interstate national basis. They are accompanied by violence and extreme brutalities. They are taking place in ever-increasing numbers, not merely in some localities but in a large number of areas, north, south, east, and west. Right here in the Nation's Capital, as all of you know, it is exceedingly dangerous to use the public streets in many sections of the city at any time of night and even sometimes in broad daylight. Gang warfare and teen-age hoodlumism, operating across State lines, take their toll of human life and property—frequently including many innocent bystanders—in practically all of the large cities of our Nation, and in some of the smaller places, too.

The enslavement of large numbers of our young people,—beginning in public school days, by the poisonous narcotic drug traffic, organized and directed nationally, constitutes a serious menace to the very foundation of our national life. Those are just a few areas in which I think there is more reason to be disturbed by allegations than simply in the matter of Negro voting.

Some of these matters have engaged the intelligent attention of various congressional committees from time to time and these committees, composed of duly elected representatives of the people have accomplished much good. Here we have a proposal for a brand new independent national commission to investigate merely one area.

The CHAIRMAN. My bill provides for a joint congressional committee to check and inquire.

Mr. WICKER. I think an investigation by a congressional committee, Mr. Chairman, of anything concerning the national welfare is far to be preferred to an investigation by some appointive committee, and I don't care who does the appointing.

Mr. FORRESTER. Mr. Chairman, would the Chair indulge me to ask a question or two?

The CHAIRMAN. Yes.

Mr. FORRESTER. I was interested in the gentleman's testimony about Mr. Brownell investigating the system after the Supreme Court had reversed a conviction and the Supreme Court said there had been discrimination in the selection of the jury. I am sure the gentleman knows that occurred in my State of Georgia. The Supreme Court reversed a conviction saying that there had been discrimination relative to the jurors. Mr. Brownell took it upon himself to go down and make an investigation. Mr. Brownell testified before this committee just exactly as the gentleman has said, that he investigated and he found out that this was not true. Actually what he was saying is that he found no truth in the findings of the United States Supreme Court. So there we stand convicted in a court and acquitted by Mr. Brownell. I apprehend that is what the gentleman is talking about.

Mr. WICKER. That is one time when the Attorney General was of help. I fear he would not be of help most times. In his statement before both the House committee and the Senate committee last year, the Attorney General frankly stated that the Department of Justice had been operating a civil-rights section ever since 1939, but that "the noncriminal activity of the Department in the civil-rights field is constantly increasing in importance, as well as in amount."

Accordingly, the Attorney General feels that "the Department's civil rights activities, both criminal and noncriminal, should be consolidated in a single organization." He thinks that in order to bring this about a new Assistant Attorney General should be authorized by Congress.

If it is proper for the Department of Justice to busy itself in the civil field of civil rights (as the Attorney General admitted the Department had actually done in some cases) then he can certainly reshuffle his organization and personnel and designate one of his assistants to direct the activities of the Department, both in the civil and criminal phases of civil rights.

In his testimony before the Senate committee, the Attorney General was questioned rather pointedly on this proposed new "Civil Rights Division" in the Department of Justice and the proposed new Assistant Attorney General to be in charge thereof. And he admitted that he already had authority to assign civil rights enforcement duties to any of the Assistant Attorneys General already authorized and serving under him. As he testified:

* * * the act, under which the Department of Justice is set up, does not specify any particular duties for any Assistant Attorney General

One reason he brought out there is that this legislation would "enhance the prestige" of the Department of Justice. Also he brought out that "increased appropriations would automatically follow" the approval of this legislation or legislation like it. I think they are two reasons, increased prestige and power and increased appropriations, that almost any bureaucratic official, whether Federal or State, seems to desire. With the prestige of the congressional approval, the Department of Justice would undoubtedly move in in various States wherever and whenever the Attorney General thought it to be advisable from any standpoint. And he could subject the governments of those States and the governments of municipalities and counties, and officials and citizens thereof to intimidations and power pressures against which there could be no redress.

In fact, that situation could be very much like that which occurs when a surging flooding river overflows its banks and breaks over or through the surrounding territory with devasting force and volume, and after its muddy tide has been receded, great damage is done and it cannot be undone. If the Department of Justice under a politically minded Attorney General, I don't care whether he is Republican or Democrat, should be armed with congressional authorization and sanction and blessing for this new Civil Rights Division, presided over by a new Assistant Attorney General, he could invade any State or any locality he chose, at any time he chose upon any allegation no matter from what source they came or how flimsy they were. And he could do this at such times and in such manner as to intimidate the officials and citizens of those States and localities and interfere with them, unjustly and unfairly, in ordinary exercise of their constitutional and lawful rights.

The worst part of it is that against this arbitrary and oppressive action, all of which would be paid for by the whole taxpayers of the United States, the victimized States and localities and officials and citizens would have no redress whatever. Perhaps after long and protracted litigation they might be able to drive the intruder back, but, as in the case of a receding flood, the damage would already have been done.

My father is a clergyman and he has been reading the Bible all his life, and he says every time he reads it, he finds something new. I confess I have read this proposed legislation several times, and it was not until just a night or two ago that I came across one part in there which really shocked me. That is in the preamble of H. R. 2145, one part of which seems to me to endorse, and promise to secure, "certain rights" included in the United Nations "Declaration of Human Rights."

I think it will be surprising and shocking to the American public to learn that this legislation, through its endorsement of this international declaration, would put the Congress of the United States on record as declaring, for example, that all adult persons in the United States have a right to engage in interracial marriage. You find that in article 16 of the Declaration of Human Rights. And a right to seek and impart information through any media and "regardless of frontiers" (art. 19) and a right to have any religion they choose—that is all right—and to "manifest their religion or belief in teaching, practice, worship and observance" (art. 18).

This legislation would pledge the United States to secure these so-called rights.

From our earliest times, the right of the several States to prohibit or allow interracial marriages within their respective borders has been fully recognized. But this so-called civil-rights legislation seeks to destroy that time honored and long standing State right.

Not long ago the United States Government executed the Rosenbergs for imparting information "regardless of frontiers." If this pending legislation had been in effect, it would have helped to thwart and frustrate the Federal prosecution and punishment of those traitors. If it is enacted now, it will be in conflict with our Federal laws against espionage.

In some parts of our country, until some years ago, polygamy was recognized and practiced as part of the religion of some of the finest people we have in the country, the Mormons. It is not practiced now because of the antipolygamy laws. That is part of their religious practice and this pending legislation would put Congress on record saying that you recognize that right and secure that right. There are some citizens called the Flagellants in the southwestern part of the United States. Their religion causes them, conscientiously, to engage in the practice of defacement and disfigurement of the human body and even sacrificial deaths. These practices are voluntary because it is their religious belief. The Federal Government and the State governments have been trying to stamp that out. But this legislation would say that those people have a right to be secured to "manifest" their religious belief and opinion by practice and observance.

I think one of the most dangerous and objectionable of all of the proposals in this legislation is the one that would have the effect of enabling the Attorney General through the Department of Justice—and that means through all the different district atorneys all over—to institute and conduct civil actions and proceedings in Federal courts all over the United States in the name of the United States of America, but really for the private and personal benefit of whatever individuals the Attorney General might choose to recognize or prefer. It would be entirely up to him.

I interpolate there to say if the Attorney General of the United States did not like some things that I said and did not like what I did, or the local United States district attorney did not, it would not be difficult for him to find some allegation that I was saying something or doing something—interfering with somebody's right. And forthwith at my expense, all of the taxpayers' expense, the Attorney General could institute an action against me in the United States court, and he would not have to do it where I live. He could do it in a court elsewhere, wherever he chose, and drag me clear across the country at the time it would do me the most harm and all of this would be at the Government's expense, except my defense which would be at my own expense. He could do this when any individual made a mere allegation that some other person has "engaged or is about to engage in any act or practice which would deprive the complaining individual of his free and untrammeled right to vote for or against candidates of his own choice for Federal office."

These bills would also have the effect of enabling the Attorney General, in whatever location and in whatever cases he chose to recognize, to deprive the defendant or defendants of the fundamental right of

trial by jury. These bills would also bypass and practically nullify proceedings in State courts and other State tribunals, now authorized constitutionally to deal with present or threatened invasion of civil rights of individuals.

All of these effects would do serious damage to our constitutional system of government and would place in the hands of the Federal Department of Justice the power to inflict intolerable burden and expense upon individual citizens throughout the Nation, and to intimidate State and local officials.

In a practical, even though perhaps not in a narrow technical legal sense, they would authorize judicial conviction of violations of law, or of intent to violate law, without affording the accused the fundamental right of trial by jury.

In this testimony, the Attorney General told of how the Department of Justice had intervened in a civil suit in Arkansas. Likewise, he told how he instituted an inquiry and investigation into voting conditions in Mississippi. No doubt the Department of Justice has busied itself in other States and localities in various civil proceedings. All of this has been done under present laws, without the specific sanction and approval or blessing of any congressional enactments as the Attorney General now advocates.

This further illustrates the fact that there is no real necessity for this proposed legislation. Now the Attorney General seems to feel that State and local officials and local citizens would resent any Federal activity that would lead to criminal prosecution, but he feels that they would not experience any similar resentment or ill will if these Federal activities were directed along the line of investigations and inquiries leading to the institution and conduct of civil proceedings and injunctions, which would be coupled with the threat of punishment by fine or imprisonment or both, for contempt of court in the event of failure to respect such injunctions.

That reasoning seems mighty unreasonable to me.

I think the average State and local official—and I have been both—and the average local citizen—I am now—would much prefer that the issue of his guilt or innocence be determined, after investigation, by customary procedure where he is not only confronted by his accusers but where he has a constitutional safeguard of trial by jury.

Instead the Attorney General wants a Federal judge, sitting without the benefit of a jury, to determine either that the defendants had been guilty of alleged law violations in the past or that they were about to commit law violations in the immediate future. The humiliation, worry, trouble, and expense would be just as great to the defendants in civil proceedings, and perhaps greater, than in criminal proceedings. But they would not have the protection that every accused deserves in the form of a trial by jury.

The Attorney General argues that these civil proceedings could be accomplished "without having to subject State officials to the indignity, hazards and personal expense of a criminal prosecution in the courts of the United States."

If State officials are charged in a civil proceeding, either with past violations or present and future violations, and dragged into the Federal courts by the Department of Justice, and subjected to long-drawn-out civil proceedings in which no speedy trial is constitu-

tionally guaranteed, and in which no jury is assured, they would be subjected to just as much "indignity, hazards, and personal expense," as in a criminal prosecution, and perhaps even more.

The Attorney General argues that while the present statute, section 241 of title 18, "makes it unlawful for two or more persons to conspire" against the exrices of civil rights of another, the statute fails to "penalize such an injury when it was committed by a single individual."

In his testimony, however—I do not know why—the Attorney General seemed to overlook another statute of equal dignity, section 594 of title 18, which makes it a crime for any one person to intimidate or threaten or coerce or attempt to intimidate, threaten or coerce any other person for the purpose of interfering with such other person's right to vote for or against any candidate for Federal office.

While it is true that this latter statute refers only to civil rights in connection with voting, at the same time it is also true that the Attorney General's testimony indicated very strongly that the principal interest of the Attorney General and the Department of Justice in this time is confined practically to the matter of voting and elections. In fact, in his testimony he suggested that there was no real necessity for any sort of antilynching legislation, especially since no lynchings had occurred in the United States since 1951.

In my own State of Virginia we have not had a lynching in 30 years. And why? Not because of any Federal investigation or Attorney General of the United States or any Federal law, but because United States Senator Harry F. Byrd, when he was Governor of the State, himself proposed and had put through an antilynching law in Virginia.

I remember the chairman of the House committee last year suggested to the Attorney General that he comment upon certain other proposals relating to civil rights then pending before the committee. They involved amendments to two principal criminal statutes intended for the protection of civil rights, such as are embodied in the pending legislation. The Attorney General testified last year, and this is very significant:

> There is grave doubt as to whether it is wise to propose at the present time any further extension of the criminal law into this extraordinarily sensitive and delicate area of civil rights

I do not know of anything particular that has happened since that time that makes it more inadvisable or any less inadvisable. I have adverted to the matter of expense. I won't touch on that any further. I will say that the more I have studied it, the more convinced I have become there is a lot more to it than meets the naked eye or legislative eye. As it is recommended by the Attorney General, I believe this legislation would eventually empower the Department of Justice to harrass, intimidate, burden, and punish citizens who believe that the Supreme Court of the United States went beyond its own lawful powers and usurped legislative prerogatives and encroached unconstitutionally upon the reserved rights of the States when the court declared that public education of Negro children and white children in separate schools was unconstitutional.

By the same sort of devious reasoning exhibited in his testimony, the Attorney General invested with the powers and prerogatives sought in this legislation could very well conclude that the State offi-

cials and local officials and private citizens who did anything to preserve segregation in areas where there will not be any public education without segregation, were guilty of conspiring to deprive or attempting to deprive Negroes in their localities of some sort of so-called civil rights. In the public-school cases decided in 1954, it was clearly pointed out to the Supreme Court in the brief of the attorney general of Virginia that Senator Trumbull, of Illinois, who was a leading sponsor of the 14th amendment, and one of the leading sponsors of the Civil Rights Acts of 1866 and 1875, declared as follows: "The right to go to school is not a civil right and never was."

The CHAIRMAN. Do you believe that?

Mr. WICKER. You mean that Senator Trumbull said that? Yes, sir; that is according to the Congressional Globe.

The CHAIRMAN. No. Do you believe he was right when he made that statement?

Mr. WICKER. That the right to go to school is not a civil right? I certainly do when he refers to it as a civil right within the purview of the Federal Government or any of its agencies.

The CHAIRMAN. You mean in this day and age you feel that the right to go to school is not a civil right?

Mr. WICKER. I think the right to go to a school provided by the State is a State civil right, but it is not a civil right that the Federal Government has anything whatever to do with, sir.

The CHAIRMAN. Not even under the 14th amendment?

Mr. WICKER. No, sir. The 14th amendment, as a matter of fact, as I am sure you know, never was ratified.

The CHAIRMAN. Never was ratified?

Mr. WICKER. No.

The CHAIRMAN. You mean never was ratified legally in your estimation.

Mr. WICKER. And in the estimation of men whose legal ability far transcends any that I have.

The CHAIRMAN. I notice the State of Georgia through resolutions passed by its legislature has raised the question of legality of the ratification of the 14th and 15th amendments. I understand copies of those resolutions have been sent to the Congress, the Chief Justice of the Supreme Court, and to the President. Do you think there is efficacy in that attempt to nullify the 14th and 15th amendments?

Mr. WICKER. I do not know whether there is efficacy or not; but it seems to me that it is not only proper, but right if you find upon examination that what is being relied on by the Supreme Court of the United States to inflict burdens and changes on the people of the United States is by virtue of an amendment that was finally, they say, ratified in 1868, and when in more than one-fourth of the States which they say ratified, ratification was performed by a military legislature appointed by military power, not elected by the people, and when the people were disfranchised in those States. I think it is perfectly proper to call that to everybody's attention.

Incidentally, Mr. Chairman, the Supreme Court of the United States has dodged that question. They dodged that question in at least five cases in which it has been posed to them and they have never passed directly on the ratification or nonratification of the 14th amendment. Never.

The CHAIRMAN. Have not many cases been decided by the Supreme Court which were grounded on the 14th and 15th amendments?

Mr. WICKER. Yes.

The CHAIRMAN. And would not that be tantamount to the fact that the Supreme Court itself recognizes the legality of the 14th and 15th amendments?

Mr. WICKER. Undoubtedly, sir, just like their school decision was grounded largely on sociological opinions. A fellow named Myrdal, a Swede, came here for a few weeks and then wrote a book called The American Dilemma, and the Supreme Court cited that, and grounded their decision in part on that. I don't believe that means the Supreme Court in a decided case with the point squarely before them decided that what Myrdal said in his inflammatory book was necessarily true. I think they have assumed that. But I say this advisedly, in 5 cases—there may be more—in 5 cases the question has been posed to the Supreme Court of the United States directly as to whether or not the 14th amendment was ever legally ratified, and in every one of those cases the Court has decided the cases on other grounds without ever passing directly on that question.

The CHAIRMAN. I take it the Supreme Court therefore felt that the question was moot. There was no need for it to make a decision.

Mr. WICKER. As a practical matter, Mr. Chairman, as the Supreme Court is now constituted, I sure think it is moot; yes.

There can be no assurance that the Supreme Court, constituted as at present, would attach any weight to the declared intentions of the sponsors of this legislation. They paid no attention in the school decision to the unquestionable opinion of the Congress that proposed the 14th amendment. It was shown, cited and read to them, and filed with them, where the Senate and the House both had put before them an amendment to make sure that the 14th amendment did include the right to go to school. That is when Senator Trumbull made his statement. Both the Senate and the House by an overwhelming vote in each case rejected the proposed amendment and took the position that the proposed 14th amendment would not include schools in the States. Consequently, if the Supreme Court here in 1954 refused to pay any attention to the declared and demonstrated understanding of the Congress which proposed that amendment then I say you can hardly expect that the Supreme Court would pay any attention to the intentions of the advocates and sponsors of this legislation, if the legislation is passed. They would just go ahead and legislate whatever they thought it ought to be, not what the Congress had done.

The CHAIRMAN. Would you say that the lonely statement by Senator Trumbull in the 42d Congress represented the intent of that Congress?

Mr. WICKER. Undoubtedly. It was put up to them directly. Yes, sir; it was put up to the Senate and the House, in almost identical amendments, sponsored by one of the leading advocates, Mr. Sumner. That was put up and was voted on and was overwhelmingly defeated in each case.

The CHAIRMAN. It does not follow that going to school is not a civil right, no matter what the Congress may have done in that forum.

Mr. WICKER. What they said was this in brief. I quoted Senator Trumbull. The 14th amendment, they proposed language to the 14th amendment which would have put in there expressly the matter of schools. It was argued then, back and forth, as to whether or not the

Federal Government had any right to deal with education in the separate States, with public education. They voted that amendment down in both cases. The speeches on the floor of both Houses and the votes showed that the sponsors of Congress did as well as saying to the States when they asked them to ratify it, "Look, this 14th amendment cannot have any effect whatever on public education in your States."

The CHAIRMAN. That is 85 years ago; is it not?

Mr. WICKER. That is right.

The CHAIRMAN. Do you believe that there have been no changes in the habits of the Nation, no changes in the Nation's life that would warrant a different interpretation as to going to school vis-a-vis a civil right?

Mr. WICKER. Mr. Chairman, that is a very good question. I will answer it this way, sir. I believe that it would be entirely proper, in view of the great changes that have occurred in our country in the past three-quarters of a century or more, for the Congress to propose an amendment to the Federal Constitution that would give the Federal Government supervision over our public schools, something which in my opinion they will get anyhow if they ever pass this Federal-aid-to-education bill. Let Congress propose that amendment. Then, if the people, that is, by three-fourths of the States, in view of changed conditions, ratify that amendment, that would end all argument completely. There might be argument as there was after the prohibition amendment, to repeal it, but that would end it, unless and until it was repealed. It would certainly end the situation in our States. But I think it is entirely improper—in fact, I think it is wrong; I think it is one of the most dangerous things that can be done, in view of the need of preserving our constitutional system of government with the legislative, executive, and judicial divisions being coordinate and equal in dignity—I think it is entirely wrong and beyond the province of rightful power for any court to interpret an amendment as meaning something which the sponsors of the amendment, the Congress that proposed it, and the States which ratified it clearly understood it did not mean and could not mean.

The CHAIRMAN. The Supreme Court is the court of last resort. There is no appeal from it. What are we poor mortals known as Congressmen supposed to do under those circumstances?

Mr. WICKER. That is another good question. If you bear with me a moment or two, I will give you an example that will answer that question.

Mr. FORRESTER. May I make a statement, Mr. Chairman? I do not think the gentleman needs any help from me.

Mr. WICKER. I need all the help I can get.

Mr. FORRESTER. Because the gentleman has demonstrated that he is a splendid lawyer. But I will call the attention of the gentleman to the fact, which I am sure he already knows, that Senator Charles Sumner, of Massachusetts, at least 1 of the authors of the 14th and 15th amendments, in 1870, made the statement in a letter—it is in writing—that the 14th and 15th amendments did not cover the schools; that it could not cover the schools at that time or any future time, because the schools were absolutely creatures of the States.

Mr. WICKER. That is entirely correct, and I thank the gentleman for that statement. My statement was dealing not with post mortems, so to speak, because Senator Sumner was one of the sponsors and advocates of the amendment proposed in the Senate trying to make the 14th amendment cover schools. Afterward he was writing his regrets that it did not. That is further evidence of the fact that the Congress which proposed the 14th amendment specifically decided that the 14th amendment should not include schools.

The CHAIRMAN. I imagine if Senator Sumner were living today, or his ghost looked down upon us now, and somebody asked if he would argue now that going to school was not a civil right, and somebody twitted him on that, "You said thus and so in 1870 or 1868," he would be apt to quote Emerson, who said, "Consistency is the hobgoblin of small minds."

Mr. WICKER. That is right. I think undoubtedly if Senator Sumner were living today I believe he would be even more of the opinion than he was in 1866, 1868, and 1870, namely, that the Federal Government ought to have the power to supervise public education, at least to the extent of guaranteeing whatever rights it thought different citizens should have. I think he would take that same position even more so today. But I do not believe that he would take the position that that right, so called, can be gotten by interpretation or by judicial legislative enactment, such as the Supreme Court of the United States pulled off here in May 1954. I do not think he would do that. In fact, Senator Sumner was a man of the most pronounced views but a man of intense political and intellectual honesty and integrity He would take the position, I believe, as you say, if he were looking down here today, and speak today, and sit right here by my side and say, "I wish what you are saying was not true, but I agree with you 100 percent. I agree with you under the Constitution as it now stands that the Federal Government has no power or right to do this. I would like to see the Constitution amended." That is what I believe Sumner would say.

The CHAIRMAN. Senator Sumner had great qualities; no doubt about it. He had a little of the prima donna. The story was told that somebody rushed in to President Lincoln and said, "Mr. President, do you know this distinguished Senator from Massachusetts today on the floor of the Senate said he does not believe in the Bible?" And Lincoln responded, "Of course he doesn't; he didn't write it." [Laughter.]

Mr. WICKER. I recall that, and I believe it is true, too. I am coming rapidly to a close here, and appreciate the time that has been given, but I want to make this point further. If this legislation is enacted and the Attorney General then chose to file proceedings against State and local officials, school-board officials, officers, and active members of various citizen groups who believe that the Supreme Court public-school decision was unconstitutional, and who accordingly are unwilling to establish and maintain a mixture of races in their public schools, in all likelihood I believe the Attorney General would be upheld by the Supreme Court, certainly of its present mind and membership. Such proceedings could result in mandatory and injunctive decrees by Federal courts followed by fine and imprisonment upon failure to comply.

You may think some of my forebodings are farfetched and the Attorney General would not do anything like that, but I reply that when any court of last resort can completely ignore the plain provisions of the 10th amendment of the Constitution of the United States while giving the 14th amendment a meaning contrary to the demonstrated intentions and opinions and beliefs of the Congress which proposed it and the States which ratified it, if it was ratified, as was done by our Supreme Court in the public-school decisions, then there is no fearsome consequence beyond the realm of reasonable possibility. If I seem to be extreme in my statements, I would like to quote Thomas Jefferson, who was certainly a very good American. In commenting upon the encroachments on States' rights by the Supreme Court in his day and how they might be checked, he said:

> By reason and argument? You might as well reason and argue with the marble columns encircling them.

He renounced the use of force. He advocated that the States should denounce acts of usurpation until their accumulation should overweigh that of separation. So I find myself in excellent company in my position.

It may be argued that I am seeing a lot of fanciful situations and the Department of Justice would not go to any such extremes under any circumstances, and, if it did, the Supreme Court certainly would not fail to interfere. Unfortunately, however, the recent decisions of the Supreme Court have shaken public confidence and in many areas destroyed public confidence in any assurance that States rights will be protected.

I come now to your question, Mr. Chairman. We often hear it said that the decision of the Supreme Court is "the supreme law of the land." You might say to me, "you are a member of the bar of the Supreme Court; you have been practicing over 40 years; don't you believe that? Don't you subscribe to that?"

I say ordinarily, yes, but not always, sir, and I cite you this: When the Constitution was framed and ratified, the States were of approximately the same area, size, and population. And when our Founding Fathers set up a government they said, "We will only give each State exactly the same representation in the Senate." But that was 1787. That was 175 years ago. Times have changed. New York State today has nearly 15 million inhabitants. The little adjoining State of Rhode Island has a mere fraction of that number. Nevada has even less. Many other States have less. So the people of New York, feeling frustrated and that changing times ought to be recognized, and feeling with the Supreme Court that "you cannot turn the clock back 175 years," this is a living, breathing, progressive Government, they elect 100 Members to the United States Senate and send them down here with due credentials of a lawful election. The Senate says "We are sorry, we can't seat you." Then these 100 duly elected New York Senators institute proceedings, whether by mandamus or otherwise, and it comes to the United States Supreme Court.

Suppose then the United States Supreme Court decided that they were lawfully elected and that because of New York's much greater population they should be seated. You say that would be fanciful, unheard of. No more unheard of and no more fanciful or more illog-

ical than the decision of May 17, 1954, that went against every decision theretofore for 100 years.

I don't believe in that case the Congressmen and Senators from other States would regard that decision, even if it was unanimously rendered, as "the supreme law of the land." I do not believe they would seat them. I do not know what they would do.

I skip the next two and a half pages and I come to my close by saying that from some of the things I have said some skeptical or some cynical people might possibly suspect that the active and fervent support now being given to these new civil-rights bills by the Attorney General and the administration when they refused to do it in 1955 is politically inspired. It was testified, before the Senate committee last year, that the Attorney General would not give the chairman of the Senate subcommittee even the courtesy of a reply to his letters, said he was too busy, would not come before them or do any thing. But suddenly in the spring of 1956, the Attorney General put on the armor of the great crusader for the right. Of course there was a difference. In 1955 there was no great national election. In 1956, that was just 6 months before a national election.

If you are skeptical, you might think the support of these new civil rights bills by the Attorney General is actuated or inspired in some way or other by political motives. But I would not be so unkind as to intimate any such evil thing.

I do not question or impugn—and I say this with all sincerity—the motives or intentions of the sponsors—I mean the congressional and senatorial sponsors—and patrons of this proposed legislation. At the same time I want to point out that, relatively, intentions appear to be unimportant. Certainly the Supreme Court pays no attention to them. The all-important thing is the possible or probable result or effect. If a mule or an elephant, if you please, kicks you in the face, the results and effects are might bad, even though he may have had the kindliest motives and have been kicking you simply as a friendly gesture. The effects are the important things.

No matter how high and noble and honest the motives and intentions of this proposed legislation's sponsors and advocates may be, the fact remains, in my opinion, and in the opinion of a large number of other citizens, that the results and effects of this legislation, if enacted into law, would be seriously and irreparably damaging to the constitutional rights of the States and of their governments and of many of their officials and citizens.

For the reasons I have already indicated, I sincerely trust that this proposed legislation will meet with the defeat that I believe it richly deserves.

I conclude by saying that I certainly appreciate, as busy as you all are and all you have before you, your patience and your consideration in affording this hearing, Mr. Chairman.

The CHAIRMAN. I want to thank you for your very interesting, provocative, and thoroughly lawyerlike argument. We like to have men like you appear before us. It is very educational and very, very interesting. Thank you very much.

Mr. WICKER. Thank you, Mr. Chairman.

The CHAIRMAN. Our last witness for the morning will be the associate of Mr. Wicker, Mr. Ernest W. Goodrich. It is now a quarter

to one. We would like to adjourn at one. Otherwise we will have to come back at 2:30.

STATEMENT OF ERNEST W. GOODRICH

Mr. GOODRICH. Mr. Chairman and members of the committee, I am Ernest W. Goodrich, an attorney from Surry, Va. My appearance here today is both as an individual citizen and as a representative of the Defenders of State Sovereignty and Individual Liberties. At the outset there are two things that I would like to make clear. First, I am not a Negro-hating, rabble-rousing fanatic as so many southerners are pictured today. I was graduated from the College of William and Mary, in 1935 with a bachelor of arts degree, and from George Washington University in 1938 with a bachelor of laws degree and 1946 with a master of laws degree. I was connected with the United States Department of Labor here in Washington from 1935 to 1939. From 1942 to 1946 I was in the United States Navy, stationed here in Washington, doing labor-relations work. I was lecturer in jurisprudence at the College of William and Mary from 1946 to 1950. Since 1940 I have been attorney for the Commonwealth for Surry County, in Virginia, except for my tour of duty in the Navy. I have been admitted to practice before the Court of Appeals of Virginia and the Supreme Court of the United States. My interest in the matter before this committee today extends back far beyond the Supreme Court's decision in the school cases. My appearance today is not prompted in the least by any fear that my children may be compelled to attend school with colored children.

Second, the organization which I represent is not a Negro-hating, rabble-rousing group of night riders, even though there appears to be a tendency on the part of some people to label everything in the South in that manner. I am not familiar with the Citizens Councils and other similar organizations in some of the other Southern States, but I want to make crystal clear to everyone that the Defenders of State Sovereignty and Individual Liberties is made up of some of the finest citizens in the State of Virginia. While its immediate concern has been with the matter of segregation, its broad purpose is a dedication to State rights.

The eminent chairman of this committee stated, according to the press the other day, that further hearings on the civil-rights legislation were not necessary because everything that could be said on the subject had already been said. I am grateful for this opportunity to appear, although I do not expect to say anything new. It seems to me, however, that the case against this legislation needs to be repeated until the people of this country are aroused to the inherent dangers therein. Unfortunately, in this country, the great mass of people have not yet realized the gravity of the situation. I venture that 90 percent of the testimony before the various congressional committees, which have considered various aspects of the civil-rights program during the past several years, has been from minority pressure groups urging the enactment of such legislation. The great unorganized masses of people of this country have not been articulate in the matter. If prolonged hearings serve to awaken the peopple, then great good will have been accomplished.

I am here because of a deep-seated and earnest concern for the welfare of my country. I want to address my remarks to the general question of civil-rights legislation, because, in my considered judgment, all of the so-called civil-rights legislation now pending before this Congress and that introduced in previous sessions, is not only unnecessary but poses a dire threat to this country. This threat is far more serious than any external threat from abroad.

As I said a moment ago, my interest in the matter before you today extends far beyond the Supreme Court's decision in the school cases. Since the late thirties when I was an attorney with United States Department of Labor here in Washington, I have watched with growing concern the rapid expansion of Federal control. We seem to have lost sight of the fundamental principle upon which our Government is based. Our founding fathers envisioned these United States as a group of sovereign States with all governmental powers except those specifically delegated to the Federal Government by the Constitution. They were fresh from the tyranny of a strong central government and they purposely established a republic for the very reason that they feared a government too far removed from the people. Apparently this philosophy of government is considered outmoded in some quarters and there is a clamor for more and more extension of Federal control by vocal minority groups.

The very thing that our founding fathers feared is happening. The Government is moving further from the people, with the result that the great bulk of the people lose interest in the Government, and those in authority lose their sense of responsibility to the people whose money they spend and whose lives they regulate. The past 20 years has seen, as you gentlemen well know, an accretion of power in the Federal Government far greater than was accrued during the first 150 years of our existence. The Congress of the United States, made up of elected representatives of the people, has played a large part in this. It seems to me the Congress has arrogated to itself the responsibility of serving as State legislatures and county supervisors. Under pressure from vocal minority groups, the Congress has legislated in fields historically reserved to the States, and under the guise of grants-in-aid, has extended Federal control into practically every aspect of the citizen's life. I cannot see how a Congressman, who gets back home and talks to his people, can fail to realize the seriousness of what is happening.

More far reaching, however, than congressional action in this field, has been the additional extension of Federal authority by the executive department in applying the laws which have been enacted. As each of you gentlemen well knows, each of the executive departments here in Washington has a large legal staff, a part of whose work consists of seeing how far under existing legislation the tentacles of control can be extended, and what new schemes of control can be presented to the Congress for enactment. My experience of 8 years here in Washington leads me to the very definite conclusion that every department of the Federal Government extends its authority as far as the law allows by specific language, interpretation, and implication, and ever seeks additional legislation to broaden its field. You may not be concerned about this matter but I say to you, with all the seriousness at my command, that unless this is curbed, our country is doomed. The complexity and intricacy of the executive department

is such that you, the Congress, which alone is responsible to the people, cannot possibly know what goes on, or do anything about what goes on. The best example is the astronomical budget submitted to you each year. There is not a man in the Congress who can ever really analyze one one-hundredths of this document. Those who make the budget, and those who spend the money, are so far removed from the source that they have lost all sense of responsibility to the people. This is not an indictment of the honesty of Federal employees, but an indisputable fact inherent in the system.

The third branch of the Federal Government, namely, the Supreme Court, has, since the days of the court-packing threat, played a major role in the extension of Federal control. It was the hope of the framers of the Constitution that the Supreme Court would be the guardian thereof, and that we would always live, in this country, under a rule of law rather than men. Unfortunately, it appears that the Supreme Court, since 1937, has been more concerned with interpretation and implication than application. I am sure than many Members of Congress have been amazed at what the Court said they meant when they enacted certain laws. I do not question the honesty or integrity of any member of the Court, but I am deeply concerned that the Court, in recent years, has handed down many decisions based on a particular philosophy of government, rather than the fixed law of the land. Roosevelt attempted to pack the Court because it followed the Constitution rather than a philosophy of government. The Court was intended to serve as a brake on so-called progress, and just as brakes on an automobile serve to keep it from running away, so the Court was intended to slow down the wild-eyed progressives. In any event the Court, by its decisions in recent years, has extended Federal control to the point where today there is hardly a vestige of governmental function in which the Federal Government does not have its hand. The States have been emasculated and our republican form of government is in the process of destruction.

The unfortunate thing is that so many of our people do not realize what has been happening. So much extension of Federal control has been under the guise of Federal grants that the people have been led to believe that the Federal Government is Santa Claus. This, together with unprecedented prosperity, has lulled the people into a sense of false security. The current legislation dealing with Federal aid to education is a glaring example of this. If there is one field in which the Federal Government has no place, it is in the field of education. The White House Conference on Education, which I attended, recommended Federal aid, but it was admitted that there was no State unable to adequately educate its children. If the proponents of Federal aid are sincere, then let them approve a plan whereby the tax money will be left in the State, and spent by the State, rather than coming to Washington and being sent back.

Why have I said all of this at a hearing on civil-rights legislation? It must be apparent, to even the most rabid civil-rights advocate, that the civil-rights program of the present administration, as was the civil-rights program of the previous administration, is only another manifestation of the determination of certain groups in this country, further to centralize the Government and further to increase the power of the Federal bureaucracy which we now have. It is obvious,

of course, that the immediate target of the program is the South. It may well be, however, that other areas of the country may be just as seriously affected as the Southland. Organized labor would do well to consider the effect of this proposed legislation on their activities.

The testimony of the Attorney General as reported in the press points up the serious implications of this legislation. According to the press, the Attorney General said that the Department of Justice now has the right under existing criminal laws to do the things covered by this bill. The only trouble is that they must be done on the criminal side of the court, whereas under the proposed legislation the proceedings would be civil in nature. One of the fundamental principles in American and English jurisprudence is that a man must be proven guilty beyond a reasonable doubt before he can be convicted of any crime. Proceedings by way of injunction requires proof by a preponderance of the evidence and punishment for contempt and violation of an injunction provided for no jury trial. In effect, therefore, the Attorney General seeks an easier way to convict the citizens of this country. Nothing could be more dangerous to our system of government and to the rights and liberty of our citizens.

The first question to be considered, it seems to me in discussing this matter, is whether or not there is a need for legislation of this type. While the proponents of the legislation deny that it is aimed at any particular section of the country I have no doubt that the immediate target is the Southland in the field of education. If the Department proposes to investigate and prosecute all of the complaints that come out of the Southland during the next few years in connection with this education question the Civil Rights Division in the Department of Justice will be the largest division in the Federal Government because they will need literally thousands of investigators and attorneys. On the point of segregation let me make clear one thing which has apparently been misunderstood by the Supreme Court and by many of the would-be reformers in this country. In my area integration today, tomorrow, or in the foreseeable future is absolutely impossible. I believe that the same situation obtains in many areas in the Southland. That is true regardless of whether or not segregation is right or wrong. It is true because in any area where a majority of the population is colored, the white people will close the public schools before they permit integration. This is not defiance of the Supreme Court but is an indisputable fact. The legislation under consideration not only will not solve this problem, but will aggravate and delay the solution for many years.

I have not had an opportunity to read the testimony in all of the hearings which have been held on this subject. I firmly believe, however, that an analysis of the testimony would show that such a need does not exist. I am not so naive as to believe that there have not been cases of injustice, discrimination, and mistreatment accorded persons in the so-called minority groups in this country. I think that examples of such discrimination have been called to the attention of the various committees that have studied the subject. However, such examples have been isolated and do not warrant action by the Federal Government. I say to you gentlemen quite frankly that when you are able, by legislation, to eliminate all discrimination, and all of the iniquities that exist in a human society, you will have indeed reached the millennium. You know, and I know, that time will never

come, and you know, and I know, that it was never intended that the Federal Government should undertake to bring about that millennium.

The Southland has been the scapegoat for the past few years of all the professional liberals and has been accused of barbarous and uncivilized acts toward the Negro. It seems passing strange that these same liberals have been silent during all of the years that the American Indians have been mistreated in a far worse manner than any Negro in the United States; nor have these same liberals been very much concerned about the mistreatment accorded the Japanese and other Asiatics on the west coast; nor have they lifted their voices in defense of the rank and file of the workingmen who, in many instances during the past 20 years, have been physically beaten and economically starved by labor unions. Of course the answer is clear, that the reason they have not been concerned with other cases of injustice, mistreatment, and discrimination, has been because there was not a potential voting block of several million people involved. Both of the major political parties have dangled this civil-rights program before the Negro voters for the past several elections in an attempt to lure the votes.

Unfortunately, most of the accusations that have been directed toward the South, with regard to the treatment of the Negro, come from people who know nothing about the problem. In my county 65 percent of the population is colored. Except for 4 years in the Armed Forces, I have been chief law enforcement officer in my county since 1940, and I say to this committee that in not a single case that has come before our court has a man been denied his full rights because of color or for any other reason. I practice law over a large part of the Black Belt in Virginia and I can say to you that this situation obtains throughout southside Virginia. I do not know what they do in North and South Carolina, Georgia, Mississippi, and Alabama, but I believe that the few cases that have been cited are rare indeed, because the people of these States are just as law abiding, honest, sincere, and God-fearing as are their critics. The State of Virginia does not need any assistance from the Federal Government in the regulation of its domestic affairs. We are able to protect the rights of all of our citizens; we have been doing this and we expect to continue.

You ask then why I am concerned about this legislation, since apparently it would not affect my area. Inherent in this question, of course, is the insidious thing about this legislation and about so much of the legislation that has been enacted in the last 20 years. Such legislation has on its surface a worthy purpose, but the effect of such legislation is to concentrate further in Washington the power to regulate, control, and direct the activities of citizens throughout the length and breadth of our land. Those who believe in ideologies foreign to our own, those who would destroy our freedom and liberty, constantly seek to hasten this trend toward centralization. While I do not impugn the honesty, patriotism, sincerity, or good intentions of any man supporting this civil-rights legislation, I do say, with all the earnestness at my command, that it is this type of legislation that the Communist and fellow travelers always support. It is obvious, of course, that pressure groups are able to influence legislation at one central point much more effectively than before 48 different State legislatures. A small group of men with ulterior motives could easily

convert this proposed civil-rights legislation into unmerciful harassment of our citizens.

No one condones mistreatment of other people; no one in his right mind would oppose this legislation on the grounds that discrimination should exist, or that people should be denied the right to vote, or be denied a fair trial, or be hanged by a mob. There are many other laudable things in life that are desirable but not realized by many people, but that does not mean that the Federal Government should be the vehicle to provide those things, even though there is certainly a tendency today to have the Federal Government assume responsibility for every individual's welfare from the cradle to the grave. I can think of nothing more dangerous to our system of government than statutes authorizing the Attorney General of the United States to come into the State of Virginia and proceed against the citizens of Virginia for alleged violation of the civil rights of certain persons. Law and order has not broken down in my State, nor in any other State of this Union, and unless the people are willing to destroy completely the State governments, then we must preserve the right of the State to maintain its law and order without interference from the Federal Government. There will be miscarriages of justice, there always have been and always will be; but such miscarriages do not warrant interference by the Federal Government.

The various bills that have been introduced on this subject, and the various committee reports which have been made heretofore, have sought to predicate such legislation on certain constitutional principles. I note in House Resolution 2145, section 2 (c) (ii), this language: "To safeguard to the several States and Territories of the United States a republican form of government from the lawless conduct of persons threatening to destroy the several systems of public criminal justice and frustrate the functioning thereof through duly constituted officials." I would like for you gentlemen to reread article 4, section 4, of the Constitution. It seems to me that this section of the Constitution expressly prohibits an interference in the domestic affairs of the State by the Federal Government, except on application of the legislature or the executive. Section 2 (c) (iii) provides: "To promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights." I can think of nothing of more far-reaching consequence than the attempt to predicate this legislation in part on the United Nations Charter. Certain it is that constitutionally there is no right of Congress to legislate on this basis. Article 1, section 8, of the Constitution was certainly never intended to cover legislation of this type. On this point let me say that I am deeply disturbed that certain groups in this country, and I believe that they are the same groups that are working toward centralization of our Government, are working toward "one world." We are in grave danger not only of a breakdown of our republican form of government, but that our National Government may be submerged into a world government, and that the "law of

nations" may in a very real sense become the general law of the United States. It may be that some of our people are ready for the United Nations to lay down the rules of society under which our domestic affairs are to be regulated. I, for one, am not now ready, nor shall I ever be ready, to abdicate that job to the United Nations or any other superagency. I believe that the so-called civil-rights legislation is but a forerunner of more far-reaching legislation touching even more intimately the lives of our citizens and having its origin in sources not American.

In conclusion, gentlemen, let me urge you to continue these hearings until the full impact of this legislation is understood by people throughout the United States. In my judgment, once understood by the people, a great majority would be very definitely opposed. Not only is there no need for any civil-rights legislation, but the enactment of the proposed bills or any of them would do irreparable damage to the structure of our Government and would be one more step toward breaking down the sovereignty of our States and destroying our republican form of government. The State of Virginia is perfectly capable of handling its affairs in accordance with the Constitution of the United States, and assistance and help from the Federal Government is neither desired or needed.

The CHAIRMAN. We are very grateful to you. The Chair wishes to place in the record a statement by Royal W. France, executive secretary, National Lawyers Guild, and a statement from the distinguished Senator from North Carolina, Senator Ervin.

(The statements follow:)

STATEMENT OF THE NATIONAL LAWYERS GUILD

The National Lawyers Guild is an association of members of the bar which since its organization in 1936 has been actively engaged, among other things, in efforts to protect our democratic institutions and the civil rights and liberties of all the people. It is because of our interest in these questions that we ask the Members of Congress to act on pending legislation which will aid in these efforts.

You have before you a number of measures designed to strengthen and extend existing civil-rights legislation. The National Lawyers Guild strongly urges your committee to report favorably upon these bills so that "the equal protection of the law" will become a reality at this time

The Supreme Court in its recent decisions holding segregation in schools and in other aspects of our daily life to be banned by the Constitution, has given impetus to the movement for equal rights. The time is long past for a full program of civil rights to be put into effect, especially since beyond the borders of our land and around the world in many underdeveloped areas, thousands upon thousands of nonwhite peoples wait to hear that the United States has indeed spoken up in a meaningful way for freedom and for equal rights at home, as well as abroad. The Court has announced a principle, a rule of life. It is up to the legislature now to provide the means of effectuating that principle and transforming that rule of life into a way of life. We believe it is reasonable to ask that Congressman of both parties unite, and with high purpose enact long-needed legislation that is neither partisan nor local in its effect.

EXISTING LAW

Existing Federal rights legislation is most inadequate in comparison with what is needed. The key provision of surviving Federal civil-rights statutes is the criminal section dealing with conspiracies to injure or intimidate citizens in the free exercise and enjoyment of rights protected by the Federal Constitution and laws thereunder (18 U. S. C., sec. 241). It is true that action by school boards to impede integration might be dealt with as willful attempts to deprive Negro pupils of federally guaranteed rights under color of State law, and some of the

activities of the new crop of white supremacist organizations might be brought to the bar of justice under existing statutes. It is also true that where State or local officials are involved in the deprivation of constitutional rights, there seems to be a sufficient element of "State action" present to prosecute for interference with 14th amendment rights (under 18 U. S. C. 242), and protection of the rights of Negroes to inform Federal officials of current violations and to bring suit in the courts is given directly by this section. (See *U. S.* v. *Lancaster*, 44 Fed. 883, 491; in re Quarles, 158 U. S. 532, 536.)

But taken as a whole, the civil-rights statutes at present do not constitute a system of law enforcements The structure as it exists is unwieldy and inflexible and depends too heavily on criminal penalties which can be applied only after the event has occurred. What is needed is comprehensive legislation which will embody the basic principles of protection of equal rights into a unified framework suited to today's needs and adaptable to today's problems. Civil remedies should be created to correspond to the rights thus far protected only through criminal penalties. Provisions for securing declaratory judgments and preventive relief in advance of the deprivation of right would serve better to secure the basic rights of our people.

The National Lawyers Guild long ago pledged itself to assist in the passage of civil rights legislation. The guild drafted the model omnibus Civil Rights Act because we believe that the passage of legislation can have a strong effect upon the positive actions of individuals, as well as providing a method of punishing those who violate the constitutional and moral principles of equal protection of the law and equal treatment regardless of race, color, or creed.

The United States Supreme Court's decisions outlawing discrimination and segregation in public schools, universities, and recreational facilities have laid down a patern which has already been followed in some parts of the country and in some aspects of life, and it only needs the coercive force of some additional Federal legislation to give the 14th and 15th amendments new life and strength.

The main opposition to civil rights legislation at this time seems to come from those who say they agree in principle but who in fact delay and raise objections solely for the purpose of putting off till next year the implementation through legislation of the Supreme Court's decisions.

Holding as it does these views, the National Lawyers Guild, while not opposed to the civil rights bill (H. R. 1151) introduced by Representative Keating, prefers and strongly supports the bill (H. R. 2145) introduced by Representative Celler.

Respectfully submitted.

ROYAL W. FRANCE, *Executive Secretary.*

UNITED STATES SENATE,
COMMITTEE ON ARMED SERVICES,
February 6, 1957.

Hon. EMANUEL CELLER,
Chairman, House Committee on the Judiciary,
Washington, D. C.

DEAR MR CHAIRMAN: When the Supreme Court of the United States banded down its decision in the school segregation cases, it repudiated on the basis of psychology and sociology rather than law the interpretation placed upon the 14th amendment by Congress, State legislatures, Presidents, State governors, and State and Federal courts, including the Supreme Court of the United States itself, in respect to racial segregation in public schools throughout the preceding 86 years.

In an article appearing in a recent issue of the Harvard Law Review, Professor Fairman, of Harvard Law School, undertook to justify the conduct of the United States Supreme Court on the ground that courts sometimes overrule their own previous decisions In his article, Professor Fairman attributed to me a statement which appeared in an opinion I wrote for the Supreme Court of North Carolina in *State* v. *Ballance* (229 N. C. 764, 51 S. E (2d) 731), an opinion which overruled a single decision handed down by the Supreme Court of North Carolina a few years earlier The statement in question was as follows: "There is no virtue in sinning against light or in persisting in palpable error, for nothing is settled until it is settled right." I regret very much that space did not permit Professor Fairman to set forth this statement in his article in its proper context Had space so permitted, it would have appeared that such statement bore no more resemblance to the action Professor Fairman was attempting to

justify than my homely face bears to the beauteous countenance of Miss America.

Since you inserted Professor Fairman's article in the record in the recent hearings on the so-called civil rights bills, I request that you do me the kindness of inserting in the same record the statement quoted above in its proper context together with the remainder of this letter. When this statement is placed in its proper context it reads as follows:

"The exceptive assignments of error of the accused challenge the validity of his trial, conviction, and sentence upon the specific ground that the legislature transgressed designated provisions of the organic law of the State when it adopted chapter 92 of the general statutes.

"It is plain that the position of the defendant cannot be sustained without overruling *State* v. *Lawrence* (213 N. C. 674, 197 S. E. 586, 116 A. L. R. 1366), where a divided court adjudged this statute to be constitutional. Consequently the accused is met at the threshold of the case by the assertion of the State that the only question raised by the appeal has heretofore been deliberately examined and decided and ought to be deemed as settled and closed to further argument.

"(1) At first blush this suggestion appears to have much force. In adjudicating a case a court is not concerned with what the law ought to be, but its function is to declare what the law is. Moreover, the law must be characterized by stability if men are to resort to it for rules of conduct. These considerations have brought forth the salutary doctrine of stare decisis, which proclaims, in effect, that where a principle of law has become settled by a series of decisions, it is binding on the courts and should be followed in similar cases (*State* v. *Dixon*, 215 N. C. 161, 1 S. E. 2d 521; *Spitzer* v. *Com'rs*, 188 N. C. 30, 123 S. E. 636; *Williamson* v. *Rabon*, 177 N. C. 302, 98 S. E. 830; *Hill* v. *Atlantic & N. C. R. Co.*, 143 N. C. 539, 55 S. E. 854, 9 L. R. A., N. S., 606).

"(2, 3) But the case at bar does not call the rule of stare decisis in its true sense into play. Here no series of decisions exists (*Spitzer* v. *Com'rs*, supra). We are confronted by a single case which is much weakened as an authoritative precedent by a dissenting opinion 'of acknowledged power and force of reason' (*Ollie* v. *Franklin County Commissioners*, 145 N. C. 170, 59 S. E. 44). Indeed, *State* v. *Lawrence*, supra, appears to be irreconcilable with the subsequent well-considered holding in *State* v. *Harris* (216 N. C. 746, 6 S. E. 2d 854, 128 A. L. R. 658). Besides, the doctrine of stare decisis will not be applied in any event to preserve and perpetuate error and grievous wrong (*Spitzer* v. *Com'rs*, supra; *Patterson* v. *McCormick*, 177 N. C. 448, 99 S. E. 401). As was said in *Spitzer* v. *Com'rs*, supra (188 N. C. 30, 123 S. E. 638), 'There is no virtue in sinning against light or in persisting in palpable error, for nothing is settled until it is settled right.'

"Some observations of the Supreme Court of Pennsylvania seem specially pertinent. 'When a question involving important public or private rights, extending through all coming time, has been passed upon on a single occasion, and which decision can in no just sense be said to have been acquiesced in, it is not only the right but the duty of the court, when properly called upon, to reexamine the question involved, and again subject them to judicial scrutiny' (*Commonwealth ex rel. Margiotti* v. *Lawrence*, 326 Pa. 526, 193 A. 46, 48).

"It is noteworthy that *State* v. *Lawrence*, supra, stands alone, and is contrary to the conclusion reached by the courts of last resort in the other seven jurisdictions which have had occasion to pass upon the constitutionality of practically identical statutes professing to regulate the practice of photography through the agency of examining boards (*Buehman* v. *Bechtel*, 57 Ariz. 363, 114 P. 2d 227, 134 A. L. R. 1374; *Sullivan* v. *DeCerb*, 156 Fla. 496, 23 So. 2d 571; *Bramley* v. *State*, 187 Ga. 826, 2 S. E. 2d 647; *Territory* v. *Kraft*, 33 Haw. 397; *State* v. *Cromwell*, 72 N. D. 565, 9 N. W. 2d 914; *Wright* v. *Wiles*, 173 Tenn. 334, 117 S. W. 2d 736, 119 A. L. R. 456; *Moore* v. *Sutton*, 185 Va. 481, 39 S. E. 2d 348)."

I wish to state that when the Supreme Court of the United States repudiated the construction placed upon the 14th amendment throughout the preceding 86 years it usurped to all practical intents and purposes the power to amend the Constitution—a power vested by the Constitution in the Congress and the States. In so doing it ignored the advice given by George Washington to the American people in his Farewell Address. George Washington said, in substance, that if the people of the United States should ever become dissatisfied with any provision of the Constitution, they should change the Constitution by amendment as authorized by the Constitution. He gave this reason for his advice: "But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are

destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

Even if I accepted the premise that the decision of the Supreme Court of the United States in the school segregation cases were right, I would still be unable to stamp the action of the Court with approval for the very simple reason that a thing can never be settled right unless it is settled right in the right way.

Judicial usurpation is just as reprehensible as executive or legislative usurpation. Indeed, there is less excuse for judicial usurpation, because judges are not subjected to the pressures which play upon executive officers and legislators.

Sincerely yours,

SAM J. ERVIN, Jr.

The CHAIRMAN. We will now adjourn until 2:30.

(Thereupon at 1 p. m., a recess was taken until 2:30 p. m., the same day.)

AFTERNOON SESSION

The CHAIRMAN. The committee will some to order.

We will hear next from the representatives of the State of Louisiana.

First, Mr. Brooks, do you have a statement to present to the committee?

Mr. BROOKS of Louisiana. Mr. Chairman, I have nothing to say. I am just here with our distinguished attorney general of Louisiana, and my colleague, Mr. Long.

The CHAIRMAN. Thank you, Mr. Brooks.

We will now hear from Representative George S. Long.

STATEMENT OF HON. GEORGE S. LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. LONG. Mr. Chairman and members of the committee. we want to thank you for the privilege of appearing before your committee. I have with me today the attorney general of the State of Louisiana, who will speak for our State on the subject of civil rights. I want to say that I have had an opportunity to examine carefully the text of the statement which will be presented to the committee, and I wholeheartedly endorse it both as to letter and spirit. Naturally this subject is of prime importance to our State and is a matter which has not been taken lightly nor skimmed over by our officials and the public. I feel that this statement to be presented to your committee accurately sets forth the position of our State with respect to civil rights.

It is now my privilege to present to you the attorney general of the State of Louisiana, Mr. Jack Gremillion.

The CHAIRMAN. Mr. Attorney General, we will be glad to hear from you.

STATEMENT OF JACK P. F. GREMILLION, ATTORNEY GENREAL, STATE OF LOUISIANA

Mr. GREMILLION. My name is Jack P. F. Gremillion. I am attorney general of the State of Louisiana, having been elected for a 4-year term which commenced on May 18, 1956.

I have lived in Louisiana all my life. I was born in Donaldsonville, La., on June 15, 1914, and I have lived in Baton Rouge, La., since 1931.

I attended Louisiana State University and have been engaged in the practice of law since July 30, 1937. I have served as second assistant district attorney for the parish of East Baton Rouge for a period of

1 year, and as first assistant district attorney for the parish of East Baton Rouge for a period of 2 years.

I want to thank Chairman Celler, Congressman Keating, and Counsel Foley for their courtesy in allowing me the privilege of appearing before this committee.

Mr. KEATING. Mr. Attorney General, those thanks should go to all the members of the committee on both sides, who are anxious to hear fully all sides of this question.

Mr. GREMILLION. I will congratulate the committee at the termination of my remarks in this statement that I have already prepared, Congressman.

Gentleman, I am not here to seek publicity nor am I present to argue with any member of this committee or any Member of Congress. My presence is dictated by a sense of conscientiousness in the respect that I believe the committee should know something about the State of Louisiana and its relations with its citizens. In short, I am saying that I would like to express the relations of the State of Louisiana as they are between itself and members of the Negro race and any other citizens of the State of Louisiana.

However, before going into the statistics which I have to present to you, I believe that it would be fair for me to state that I am opposed to the various bills presently pending before the Congress on civil-rights legislation, and, in particular, H. R. 1151 and 2145.

My opposition to these bills is based upon the sincere conviction that this legislation is unnecessary because of the fact that, insofar as Louisiana is concerned, there has not been any deprivation of civil rights regardless of any minority group.

One of the prime matters of importance to which I understand civil rights relates is the question of voting and the denial of the right to vote to certain individuals because of their race, creed, or color.

Insofar as the State of Louisiana is concerned, we have no such problems. The poll tax was wiped off of our books in 1934. In that year the Louisiana Legislature substituted a mere registration in poll books as a requirement for the payment of poll taxes. This is expressed in article 8, section 2 of the Louisiana Constitution of 1921, and it reads as follows:

> The right to vote at any election shall not be effected by any requirement for payment of a poll tax or for registration in a pollbook in any form.

This article was amended and passed in its present form in 1940. In 1936, this article was amended to allow establishment of a procedure by which a person employed outside the State could have pollbooks signed on his behalf.

I would like to point out to the committee that since the year 1940 Louisiana has not required any payment of any type of poll tax or for registration in any type of pollbook in any form.

The statutory provisions of Louisiana, with reference to domicile, was amended at the last session of the legislature of Louisiana in 1956, and a constitutional amendment was submitted and adopted by the people of Louisiana in which the minimum residence requirement was reduced from 2 years to 1 year for out-of-State residents. The residential requirement in a parish—similar to your counties—was reduce to a minimum of 6 months. The residence requirements for a ward was reduced from 6 months to 3 months.

The enactment of these laws clearly shows that the State of Louisiana has recognized the privilege of voting to be vested in all residents of the State, regardless of race, creed, or color. The residential requirements have been reduced to a minimum, in keeping with our great transitional and expanding population.

The reason the Louisiana Legislature changed the residential requirements within the State from 2 years to 1 was primarily because of the fact that Louisiana is experiencing a great industrial expansion at the present time and we are receiving into our State many people from the North, the East, and the Middle West, and this provision of law gives them the opportunity of voting within a year after residing in the State of Louisiana, without regard to race.

I sincerely believe that these regulations are more than reasonable and are above the national average insofar as suffrage is concerned.

The total population of the State of Louisiana, according to the 1950 census, was 2,683,516, which was comprised of 1,796,548 Caucasions, and the remainder of 886,968 was composed of nonwhites, a ratio of more than 2 to 1. Included in the nonwhite figure are a few Indians, orientals, and so forth of which by far the majoirty of nonwhites are Negroes.

As of October 1956, there was a total of 1,056,546 persons registered to vote in the State of Louisiana and eligible to vote in the general election of November 1956. Of these persons registered, 903,959 were registered as white and 152,587 were registered as Negroes.

With further regard to the right of suffrage, the Constitution of Louisiana, article 8, section 5, provides——

Mr. KEATING. May I interrupt there?

Mr. GREMILLION. Yes, sir.

Mr. KEATING. Do you have an educational requirement of some nature in Louisiana in order to vote?

Mr. GREMILLION. The requirement with reference to education provides they shall be able to read and write and interpret one part of the Constitution, of their choice.

Mr. KEATING. One part of the United States Constitution?

Mr. GREMILLION. Yes.

Mr. KEATING. And they can choose it?

Mr. GREMILLION. Oh, yes. In other words, the registrar of voters cannot say, "I want you to explain something" that is impossible to explain. They have the right of choice insofar as concerns the section or phrase of the Constitution they wish to interpret. They have their own choice on that, and nothing is foreplanned or forewarned.

Mr. KEATING. Is that the only literacy test they are given?

Mr. GREMILLION. That is correct.

May I proceed, sir?

Mr. KEATING. Yes.

Mr. GREMILLION. This section of the Louisiana constitution provides:

> Any person possessing the qualifications for voting prescribed by this constitution, who may be denied registration, shall have the right to apply for relief to the district court having jurisdiction of civil causes for the parish in which he offers to register. Said court shall then try the cause, giving it preference over all other cases, before a jury of 12, 9 of whom must concur to render a verdict. This verdict shall be a final determination of the cause. The trial court may, however, grant one new trial by jury. In no cases shall any appeal lie or any other court exercise the right of appeal.

Any duly qualified voter of this State shall have the right to apply to the district court to have stricken off any names illegally placed or standing on the registration rolls of any parish within the jurisdiction of said court; such application shall be tried by preference before a jury of 12, 9 of whom must concur to find a verdict, and no appeal or right of review shall be granted to any party to said cause, except the party whose name is stricken from the registration rolls; this appeal to be returnable to the court of appeal having jurisdiction of appeals from such parish. The finding of said court of appeal shall be final, and the same shall not be reviewed by any other court. Such application and appeals herein above provided for shall be without cost

The legislature shall provide for the prosecution of all persons charged with illegal or fraudulent registration or voting or any other crime or offense against the registration, or election, or primary election, laws

Mr. KEATING. Mr. Attorney General, referring to your Louisiana statutes, is there a provision in other statutes that there is no right of appeal to an upper court?

Mr. GREMILLION. Yes.

Mr. KEATING. It struck me as rather unusual, and I wondered about it.

Mr. GREMILLION. I think the reason for that being in there is actually to protect the registrant, because, as you well know, a case could be tied up for many years as a result of fruitless and futile appeals. And that is really put into there, Mr. Keating, to protect the registered voter.

The CHAIRMAN. We have in our State, Mr. Gremillion, which is the State of New York, the right of appeal, and the appellate courts expeditiously handle these voting cases. There is no reason for delay in our State.

I just say that in passing.

Mr. GREMILLION. I understand that.

I would also like to point out that insofar as the laws of Louisiana are concerned, with reference to an election contest, for instance, before the Democratic Party or before the Republican Party, even for that matter, there is no right of appeal there because Louisiana holds that the question of the selection of nominees is strictly a political question and not a legal question, and it is for the party to determine who the nominees shall be. And there is actually no appeal from those election contests.

The CHAIRMAN. Would you say that the right to have one's name placed back on the roll of voters or the right to have one's name not stricken from the roll of voters is a political question?

Mr. GREMILLION. No. I was just telling you about the primary laws of the State. You asked me a question about the laws, and I was explaining them to you.

There is one thing I would like to point out, Mr. Chairman, and that is this:

In explaining this section of the Louisiana constitution, let me remind you that the party affected has a right of appeal. You probably did not understand that when I read it. The affected party has the right of appeal.

Mr. KEATING. Under that first paragraph?

Mr. GREMILLION. The second paragraph takes care of that, sir.

In other words, you did not understand, the whole section of the constitution provides that, if one is denied the privilege of voting, he has the right immediately, by preference over all other cases, to relief. If someone takes his name off illegally, but such is the judg-

ment of the court, he has the right to appeal. That is why I told you a minute ago that this is definitely provided for people who may be affected by discriminatory practices. That has been in our State constitution since its adoption, and before 1921, in previous constitutions.

May I proceed, sir?

The CHAIRMAN. Surely.

Mr. GREMILLION. With further regard to the registration of voters, Louisiana has laws on its statute books which secure to any individual his right of franchise, as provided in the constitution of Louisiana, as above quoted.

To keep this document from being overly verbose, permit me to say that Louisiana has provisions for the challenging of any registered voters. In brief, a challenge can be made to any registered voter for any reason by any two bona fide registrants of the parish wherein the voter resides.

When such a registrant is challenged, the registrar of voters is required, under the law, to forward a notice of the challenge, a complete copy of the same, together with a form which the challenged registrant has to execute by three bona fide voters registered in the same parish to the effect that the challenged registrant is a bona fide resident of that parish. This form is sent to the challenged registrant at the time that the notice of challenge is sent.

If the challenged registrant does not appear within 10 days, the registrar shall remove his name from the rolls. If, however, the challenged registrant appears with three bona fide registered voters to assert the authenticity of his residence in the parish before his registrar of the voters, or deputy registrar, the challenge shall fail and the voter's name shall remain on the rolls. See Louisiana Revised Statutes of 1950, title 18, sections 132, 133, and 134.

As an indication that the State of Louisiana intends to recognize the universal right of suffrage, we have adopted a system of permanent registration with equity to all people.

The largest cities of Louisiana, such as New Orleans, Baton Rouge, Shreveport, Lake Charles, Alexandria, and Monroe, and the parish of Jefferson, have all installed the permanent registration system. I believe that this is indicative of the fact that the right of suffrage to all citizens in Louisiana is recognized and enforced.

We have State laws adequate to deal with the protection of a citizen's right to vote. Louisiana Revised Statutes, chapter 18, section 231, contains provisions for every parish in the State to adopt permanent registration if they so desire. It is reliably estimated that two-thirds of the voters of the State of Louisiana are now covered by permanent registration.

To further show that the rights of citizens have not been abridged in the State of Louisiana, my State has installed a system of public welfare, old-age assistance, and hospitalization, which we believe is an example to the Nation. There is certainly no discrimination among its citizens as to these rights and benefits. For example:

The charity hospitals and nurseries of Louisiana admitted during the 1953–54 year a total of 43,477 persons of the white race, of which 19,557 were males and 23,920 were females. A total of 92,305 charity nonwhite persons were admitted, of which 30,605 were males and 57,456 were females.

The charity hospital admission per 1,000 white males was 17.79 percent. The charity hospital admission per 1,000 for white females were 21.86 percent, the total charity white hospital admission per 1,000 being 19.85 percent.

The charity hospital admission per 1,000 nonwhite males was 46.26 percent. The charity hospital admission per 1,000 for nonwhite females was 99.90 percent, the total nonwhite hospital admission per 1,000 being 77.13 percent.

The nurseries admission per 10,000 in the State-furnished nursery service was 2.15 for whites.

The nurseries admission per 10,000 in the State-furnished nursery service was 22.05 for nonwhites.

The total white admissions to mental institutions supported by the State, as of January 31, 1956, was 4,812.

The total nonwhite admissions to mental institutions supported by the State, as of January 31, 1956, was 3,373.

The tubercular institutions supported by the State, as of January 31, 1956, had admitted 264 whites and 181 nonwhites.

I wish to emphasize that all of these facilities are charity, provided by the taxpayers of the State of Louisiana.

As a further example, the Department of Welfare of the State of Louisiana carried on its rolls, as of March 1956, a total of 120,389 persons who were receiving the old-age assistance; 66,093 were whites and 54,296 were nonwhites.

The welfare department rolls carried, for March 1956, a total of 1,964 persons under its program for assistance to the blind; 733 of these were white and 1,231 were nonwhite.

During this month the welfare department carried on its rolls 20,881 children under its program of aid to dependent children; 6,045 of these were white, and 13,936 were nonwhite.

For the same month, 14,016 persons were carried on the welfare rolls under their disability assistance program; 6,600 of these were white and 7,416 were nonwhite.

For the same month, the welfare program carried on its rolls under its general assistance program 6,817 persons; 3,186 of these were white and 3,631 were nonwhite.

The CHAIRMAN. Mr. Attorney General, I am reading from page 145 of the transcript of these hearings, where there was testimony given as follows:

> In Louisiana the white citizens councils have conducted a campaign to purge as many colored voters from the books as possible. In Monroe, La., representatives of the councils have actually invaded the office of the registrar of voting for the purpose of purging colored voters. The Assistant Attorney General in charge of the Criminal Division of the Department of Justice testified in October 1956 that over 3,000 voters had been illegally removed from the rolls of Ouachita Parish, in which Monroe is located.

Would you care to comment on that, sir?

Mr. GREMILLION. Yes.

I actually do not know anything officially, or nonofficially, about the activities of the citizens council in my State. I am not a member, and I actually do not know. But I do know that up at Monroe they did have some difficulty with respect to voting. But that is definitely not a general rule throughout the State, and I think that is more or less an exception.

Incidentally, the grand jury, the Federal grand jury, in Ouachita Parish, where Monroe is located, has failed to return any indictments whatsoever against any of these persons.

I might tell you that my office cooperated with the FBI in explaining to them the law.

Mr. KEATING. Did you in any way resent the FBI coming in to make that investigation?

Mr. GREMILLION. I did not.

Mr. KEATING. Did you think it was proper for them to do so?

Mr. GREMILLION. I do not actually believe it was necessary. I think that the events which actually happened show that the investigation was actually not necessary.

Now, there were several court orders up there which were very burdensome on our registrars. One of them provided a registrar from Mansfield, some two-hundred-some-odd miles away, to bring all his records with respect to voting. It would be practically the same thing as if a subpena had been issued by a court to this committee to move everything.

The cooperation between the Government authorities in the Monroe incident, in my personal opinion, was not indicative of the relations that should exist between the Federal Government and the State of Louisiana.

Mr. KEATING. Have those names been put back on the rolls?

Mr. GREMILLION. About 99 percent of them are back on the rolls, Mr. Keating. That was under the provisions of the law which I read to you from page 2 of my statement.

The CHAIRMAN. If those names have been put back, it seems to me that somebody had certainly run afoul of the law by purging those names. Was there any action taken against these individuals who did that?

Mr. GREMILLION. No.

Mr. KEATING. Has that happened in other parishes?

Mr GREMILLION. Oh, yes.

Let me explain to you about Louisiana.

My registration could be challenged by two people. They could come in and challenge my registration.

Mr. KEATING. But has there been wholesale purging in other parishes?

Mr. GREMILLION. No.

Mr. KEATING. Is that the only incident?

Mr. GREMILLION. That is the only incident that I know of. And about 99 percent of those are back on the books as a result of Louisiana's laws, which I read to you a minute ago, which was the Revised Statute of 1950, title 18, sections 132, 133, and 134.

The CHAIRMAN. Were those names replaced as a result of activity on the part of your office?

Mr. GREMILLION. No. My office actually had nothing to do with it. But it is up to the registrant to avail himself of the provisions of the law.

However, I did publicize these laws, because in opinions which I issued, copies of which I gave to the FBI, I sent every registrar of votes in the State of Louisiana an official interpretation as to the requirements to put those people back on the rolls. So I think I did help.

Mr. KEATING. Were they put back before the FBI got there?

Mr. GREMILLION. Most of them were, Mr. Keating; very definitely.

Mr. KEATING. After it was announced that the FBI was coming, they put them back?

Mr. GREMILLION. No. The FBI had nothing to do with putting them back. As a matter of fact, insofar as public reaction was concerned, it might have hurt. It positively did hurt.

Mr. KEATING. Who was it that put them back?

Mr. GREMILLION. The provisions of the law.

Mr. KEATING. We try not to be naive on this committee.

If there are 3,000 names taken off the rolls, and they purged that number off the rolls, there was some pressure from some source to put those names back; the registrar just did not get religion overnight.

Mr. GREMILLION. No; it is just the law. You see, you can have your name removed. I mean you cannot have your name removed if you do what the registrar of voters tells you to do. And if any person fails to appear and bring in three bona fide registered voters to verify that he lives in that parish, his name will never be removed. And these individuals were removed solely because of the fact that they failed to appear.

Mr. KEATING. How did they get back?

Mr. GREMILLION. They came and registered. They came and registered.

Mr. KEATING. And it was all a voluntary act on the part of the registrar; there was no concerted effort to take these names off the rolls?

Mr. GREMILLION. Well, I am not trying to be naive with you gentlemen, either, but I actually believe that these people went back on the rolls because of their voluntary actions. They were only removed because they failed to comply with the law, and they were put back on as a result of reregistration.

The CHAIRMAN. Why were their names stricken in the first place?

Mr. GREMILLION. Because of improper registration.

Our law provides, revised statutes, title 18, section 32, you have a form to fill out which says:

"I am a citizen of the United States and the State of Louisiana."

And you have to state your name, your residence, your parish, how long you have lived there, and so forth. It is a printed form.

Mr. KEATING. Were all 3,000 of those voters nonwhites?

Mr. GREMILLION. They were Negroes, absolutely. There were some whites, but the majority of them were Negroes.

Mr. KEATING. Do you attach any significance to the fact that there were 3,000 in 1 fell swoop of Negroes, or near that number?

Mr. GREMILLION. I think, Mr. Keating, that very probably the reason for it was the activities of the citizens council. But that is not official action of the State of Louisiana.

What I am trying to show you is that we have laws that put them back on the books.

The CHAIRMAN. I am sure nobody charges the State officially with doing that. That is the farthest thing from our minds.

Mr. GREMILLION. I mentioned the White Citizens Council. Let me emphasize that in the Monroe matter there were no indictments issued by the Federal grand jury, and the challenges evidently failed.

Mr. KEATING. How many members of the Federal grand jury were members of the White Citizens Council?

Mr. GREMILLION. I have no way of knowing that. That was a grand jury of about, I think 35 people were sworn for grand jury service at one particular time.

Mr. KEATING. How large an organization is the White Citizens Council in Louisiana?

Mr. GREMILLION. Mr. Keating, I have no idea; I cannot tell you. If I knew, I certainly would tell you, but I do not know; I actually do not know.

Mr. KEATING. Are they registered with the State in any way as an organization?

Mr. GREMILLION. Yes, they have filed a membership list with the Secretary of State, as our statutes so provide.

May I continue?

The CHAIRMAN. Yes, certainly.

Mr. GREMILLION. Mr. Dalton, one of my assistants here, advises me on something that we were talking about in the Ouachita matter, the Monroe matter, and I want to remind the committee of this: that there were two grand juries that investigated these alleged discrepancies or purging of the rolls.

The first did not return any indictments, then the second one was convened, with Mr. St. John Barrett—I believe his name was—assisting, an assistant United States attorney general sent down from Washington. So that grand jury also failed to send down any indictments.

So let me remind you this matter was investigated by two Federal grand juries.

There is another right with which I believe this committee is vitally concerned, and that is the right to jury service. The constitution of Louisiana has not made any exceptions, with reference to jury duty, insofar as race, creed, or color is concerned. Negroes have consistently served for the last 20 years on Federal juries and on juries in State district courts within the State of Louisiana.

Members of the Negro race have also served as members of grand juries in the various parishes in Louisiana. I know this is a personal fact, because, as assistant district attorney of the parish of East Baton Rouge from 1952 through 1955, we had from 2 to 3 members of the Negro race on every grand jury that sat during the 3½ years that I served as assistant district attorney in the parish of East Baton Rouge.

I have tried many criminal cases on which members of the Negro race sat as members of the venire and who were actually selected as members of the petit jury. This is likewise true of the other parishes in the State of Louisiana.

I regret that I have to burden this committee with figures of benefits, old-age assistance, voting, and jury service from our States, but I believe that they are essential to your deliberations.

It is a matter of pride with the State of Louisiana that we have accomplished so much without Federal intervention. It is indicative of the fact that Louisiana recognizes its obligation to assist all of its citizens and that Louisiana has preserved the doctrine of States rights and protected and perpetuated to all of its citizens the civil rights to

which they are due, and which we have given to all citizens, and on this score we are ahead of you.

I believe that our sister States of the South, if given the time and opportunity, will likewise progress to the extent that we have progressed. This proposed legisaltion would circumvent the normal and ineivtable flow of progress which has been made and which will be made. People can only progress as long as progress exists in their hearts. No legisaltion can force progress, nor can fear or intimidation advance progress.

A myriad of bills relating to civil rights is before this committee and it is my belief that the bills are basically designed to bypass the State courts of Louisiana and, for that matter, the State courts of all of the United States.

Louisiana, with all sincerity, and with our fundamental belief of States rights, will resist with all her might, within the law, any encroachment on the State or States with respect to the various civil rights bills.

The CHAIRMAN. What do you mean by "with all her might within the law"?

Mr. GREMILLION. With complete determination, and with every facility available.

Civil rights bills, insofar as they relate to Louisiana, are not necessary. The courts in Louisiana, both State and Federal, have done an extraordinarily good job in protecting the basic rights of all people, and, therefore, it would seem to us that many of these bills are inspired by passion; intense feeling of many such organizations as the NAACP, and so forth.

The Washington, D. C., newspaper, the Evening Star, on Monday, February 11, 1957, carries a story headlining "The American Communist Party Promised Full Participation in the Support of All Sides, Antisegregation Movement in the South."

I have attached this article to my statement:

Mr. KEATING. What has that to do with this hearing?

Mr. GREMILLION. It has plenty to do with this hearing, in my opinion.

If the Communist Party is going to come into the South or anywhere in the United States to influence bad racial relations, we want no part of it.

Mr. KEATING. What does it have to do with the civil rights bills? You are not associating the authors of these bills with the Communist Party, are you?

Mr. GREMILLION. Absolutely not. I am showing you the tempo, the criticism that we in the South are being subjected to as a result of this particular article. It shows the feeling, it shows the passion which certain individuals are trying to put into these particular hearings for their own particular benefit.

Please understand, I have no reference to any Member of the Congress or any member of this committee.

Mr. KEATING. We have not had any Communist witness before us, so far as I know, on either side.

Mr. GREMILLION. This is the first meeting that the Communist Party in America held in 7 years, and certainly if they have made a declaration that they are going to take part in an antisegregation move

in the South, I think the committee ought to be aware of it, because we want to eliminate every device that stirs up racial hate, because the only thing that it does is lead to trouble, and that is why I attach this article to my statement, sir.

Mr. ROGERS. Did you see the article which stated what Mr. Roy Wilkins, of the NAACP, said about this resolution?

Mr. GREMILLION. No, I did not. But I did read a newspaper article about Roy Wilkins, condemning the President because he is not pushing the civil rights legislation.

I also read another article, by a Negro leader in the South, who condemned the President because he refused to visit the South and personally put his moral weight of his office against the breakdown of law and order.

I do not think those statements are certainly helping the situation or are indicative of good race relations in any place.

Mr. ROGERS. The reason I asked the question is that I thought I read in the same Washington Star a denial by Roy Wilkins that the NAACP had any connection with, did not want the assistance of, the Communist Party. I just wondered if you saw that in the same paper.

Mr. GREMILLION. No; I did not.

I am not trying to associate per se the American Communist Party with the NAACP either; let me have that thoroughly understood. But the NAACP has been very active in stirring up integration in the State of Louisiana, and that has been resentful to quite a few of our citizens, including members of the Negro race, and we wish to eliminate that as much as possible.

The CHAIRMAN. Mr. Attorney General, I am very happy to note in your statement that your State has done an extraordinarily good job in protecting the basic rights of all people. May I ask:

Has there been integration in your public schools?

Mr. GREMILLION. Not as yet, no.

The CHAIRMAN. How far have you gone? Tell us a little bit about the situation in your State.

Mr. GREMILLION. In the State of Louisiana we have integration of both the races in some of our higher institutions of learning. This has been done, of course, as a result of court orders. All of the universities and colleges have resisted it.

We have no integration in our schools at this time. There are about 5 or 6 cases pending in the courts, which will probably be decided in the very near future.

But I want to go on record, as far as my State is concerned, that of course we are for segregation in the schools. We believe in it, it is our heritage, we have been raised that way.

And of course, we certainly are going to comply with the Supreme Court decision. Our legislature passed several laws recently in which the consent of the State was withdrawn to the suit, although the constitutionality of those suits is now pending.

But I want to say that we have in Louisiana operated for years under the doctrine of separate but equal facilities, as laid down, as you well know, by Pleasy versus Ferguson, which of course has been repudiated. But we have excellent educational facilities for the Negroes. We have at least five major colleges and all of them are State-supported by the taxpayers. We even have a separate law school out at Southern University in Baton Rouge for the Negroes.

And I do not believe that, as far as the State of Louisiana is concerned, that any Negro is suffering for a lack of education as a result of the taxpayer dollar.

The CHAIRMAN. The Supreme Court has indicated that "separate but equal" is not "equal protection under the law."

Mr. GREMILLION. I know that, sir.

The CHAIRMAN. That is why I am asking questions about education. Do you say there has been a fair degree of integration in the universities?

Mr. GREMILLION. No. I say there has been some, but not much.

The CHAIRMAN. How do you intend to implement the decision of the Supreme Court? Is your State actively going about integrating?

Mr. GREMILLION. No.

The CHAIRMAN. Are you just going to do it when you are forced to do so, after you have gone through the United States district court?

Mr. GREMILLION. That is correct.

The CHAIRMAN. And you are willing to suffer these injunctive decrees?

Mr. GREMILLION. Apparently that is the policy of our legislature.

The CHAIRMAN. Is that not a defiance of the Supreme Court decision, if you require every school to go to court?

Mr. GREMILLION. Mr. Celler, we have not defied the Supreme Court decision. The Supreme Court had not told us to integrate as of this time. The Supreme Court in its decision said it is a denial of equal protection under the law. But we have not been ordered to integrate as of this time.

Of course, when we are told to do so, if we are told to, certainly we will do it.

The CHAIRMAN. You are really morally told to do so when you have one decision. You are asking for hundreds of decisions now.

Mr. GREMILLION. As a matter of law, I differ with you about a moral directive becoming a judgment of the court. I do not think there is any such thing as a moral judgment.

The CHAIRMAN. What must we do, as Members of Congress, when we have a Supreme Court decision which enjoins you in general to provide for equality? And "separate but equal" is not equality. What must we do? Must we just wait until Louisiana and all the other States have had brought against them various injunctive decrees which might take years and years?

That is not a very healthy situation.

Then you have situations where injunctions have been granted in one part of the State and not yet granted in another part of the State. There you will have worse confusion compounded in your own State, will you not?

Mr. GREMILLION. No, absolutely not.

You say what must you do. I can tell you in just a few words: Leave us alone; we know how to run own own business.

The CHAIRMAN. We have enjoined upon us also the need for implementing the Constitution, and especially as interpreted by the Supreme Court.

Mr. KEATING. We are trying to relieve you of some hard work here. If you are faced with lawsuits on the part of people who are denied equal protection under the law, you are going to be a very

busy fellow running around Louisiana defending all these cases. We are trying to help you.

Mr. GREMILLION. Mr. Keating, as far as Louisiana is concerned—and I say this with complete respect—thank you for your help, but let us handle our own situation. Let each State administer its own affairs.

Of course, basically, all of this comes back to a new philosophy of life that is actually transforming the social progress in the United States. I admit that particular fact.

Some day, if the decision of the Supreme Court stands, let us bear in mind that Pleasy versus Ferguson was the law of our land for years and years, and we lived under that. We lived under that in every State in the Union, and it was changed by the Supreme Court. There may be a day when we will come back to that situation. We may be able, and the people may say in years to come that they are not satisfied with integration.

I read the subcommittee report on the results of integration in Washington, D. C., and one fact came out of there which impressed me—and I believe you will agree with me on this, Mr. Chairman—and that was this: that they did agree that the Negro race was not ready to accept integration in schools at this particular time; they were not ready for it or prepared for it, no more than were the white people.

So I say again it comes back, in our minds, to a question of States rights, which flows from the Constitution.

I do not want to be hypocritical about the Constitution.

If we are going to recognize States rights, let us continue to do it, let us eliminate a conflict, and give us the right and the authority to handle our own situation insofar as education is concerned. Let us not preempt the Federal Government into another field.

The CHAIRMAN. Mr. Gremillion, I admire your frankness. You have been extremely frank and honest in your replies, and that is what we want. But I wonder whether or not, in your argument for States rights and for Louisiana, whether you are not flouting the will of the Supreme Court in your requiring all this multiplicity of suits to be started before you will have integration with what the Supreme Court designates as "deliberate speed."

Mr. GREMILLION. I again tell you my reply to that is simply this: That I do not believe the State of Louisiana is defying the Supreme Court. Very probably they will say in one of these suits that you have to do so and so, and when the Supreme Court does it, we will have to do it.

Mr. KEATING. Let me put a case to you. Say that John Jones, a Negro person, through his guardian, brings an action against the Baton Rouge School District No. 5, demanding the right to go to that school. Assume he lives in that area and demands the right to go to that school, and the court holds that he has that right under the Supreme Court decision. Then an appeal is taken and it is carried all the way to the Supreme Court and his right is sustained.

Now, then, you would advise that school district to admit him, would you not?

Mr. GREMILLION. Yes. And there is such a case pending now, in the Fifth Circuit Court of Appeals.

Mr. KEATING. Would you advise that school to admit just that one Negro, or would you advise them to admit any Negro pupil who was otherwise qualified and who wanted to go to that school?

Mr. GREMILLION. My advice to them would be to obey the law.

Mr. KEATING. And only in that one case?

Mr. GREMILLION. Well, I don't know about that.

Mr. KEATING. That is pinning it down to a narrower point than what the chairman has been referring to here by the Supreme Court decision.

I am sure that you get my point. Obviously, it is of interest to this committee to know what the policy of Louisiana would be in such a case, and I agree with you that, under the Supreme Court decision—and it has been left to the Federal district courts in the various areas throughout the country—you might feel that way. But are those States who control those school districts, or are the school districts, going to require that every single Negro pupil who is otherwise entitled to go to that school must bring an action in the courts in order to assert his right?

Or if one pupil brings the action, are they going to say, "Well, this pupil has established this as the law, and from here on out that particular school district, at least, must admit any otherwise qualified Negro student"?

Mr. GREMILLION. Let me answer your question. If you give me just a second, I think I can answer your question.

In the first place, I believe that the courts should settle the matter, and whatever directive a court places on a school district will certainly have to be obeyed. But the question of individual suits such as you mentioned will certainly be out of the question, because once these school districts are told to integrate, they are going to have to do it. But there definitely will not be a multiplicity of suits such as you are referring to.

There is something else that you have to think of in this case. Integration involves millions of people, and it involves millions of problems.

We have laws on our statute books, we have constitutional provisions on our statute books. I do not know whether they conflict with the Supreme Court's idea. That is why I say that we have to obey our State laws, and until those State laws are modified or changed as a result of the court decisions, we will then be able to integrate.

The CHAIRMAN. Let me interrupt you at this point.

Mr. GREMILLION. Yes, sir.

The CHAIRMAN. I would be willing, personally, to declare a sort of moratorium if we could get a pledge from your State and from other States similarly situated that they would repeal all their segregation laws. If you did that, we would have no need to go through this cumbersome procedure and we would have no need to pass civil rights bills.

Do you follow me?

Mr. GREMILLION. Yes, I follow you.

Mr. KEATING. I do not know what kind of moratorium the chairman has in mind, but it seems to me more likely it would be in the nature of a millennium. I do not think it is practical, as a matter of fact.

The CHAIRMAN. Probably not.

But the point I want to make is that if you would repeal your segregation laws, then I do not think we would have the problem.

Mr. GREMILLION. I believe that the only one that could answer that would be the people of Louisiana, although I like your idea very much. And I say quite frankly I believe that, as far as the people of Louisiana are concerned, if we were let alone, if we were not interfered with, I believe that we could continue to take care of our problems.

Such an idea as you suggest would be marvelous. But I doubt the practicality of it because I think you have so many forces coming into the picture and so many pressure groups coming into the picture that it would be a question of the impracticality of it.

However, I do like it and I admire you for your views, Mr. Chairman.

Mr. KEATING. We like the chairman up in our State, but we do not want you Louisianians to take him over down there in Louisiana.

I would like to pursue a little this point that I made.

I would judge, from the first part of your answer to my question, in which you said that there was not likely to be such a multiplicity of suits as my question had envisioned, would lead you to conclude that, barring some very unusual circumstances in this suppositious case that I put to you, of John Jones, as to a particular school district, that after he had won his case, if and after he had won his case, that school district, at least that district, would integrate.

Am I going too far when I ask that?

Mr. GREMILLION. Mr. Keating, all of those actions are class actions, and the now famous words, "others so similarly situated," would certainly apply, and all of them are brought as class actions. So that would eliminate it.

Mr. KEATING. Let me pursue that one step further.

If the individual involved in the class action brought such a proceeding against school district No. 5 at Baton Rouge, and they were, of course, to integrate, would there be any disposition on the part of Louisiana to advise districts 4, 3, and 2 also to integrate as a result of that?

Mr. GREMILLION. That would depend upon the court judgment. But I believe that from the way the Federal courts have been rendering these judgments, that such a judgment would apply to all of the schools of the State of Louisiana. It would definitely apply.

The CHAIRMAN. To all the schools, or just in the Federal district?

Mr. GREMILLION. I am sure that such a judgment would apply to all schools.

Mr. KEATING. In the case that you say is now pending—I believe you said in the circuit court—is that class action?

Mr. GREMILLION. Yes.

Mr. KEATING. And does it seek to integrate all schools, or a particular school?

Mr. GREMILLION. There is one case from Orleans Parish, which has a separate system.

There is one case from the Parish of St. Helena, and there is one pending in Baton Rouge.

Of course, I do not know what the court is going to do, but I would venture to say that, presuming and assuming that a judgment was rendered declaring these segregation laws unconstitutional, that it

would affect all of the school districts in the State of Louisiana; it would certainly have to.

The CHAIRMAN. One case is all that might be necessary?

Mr. GREMILLION. I will have to agree with you on that. Yes.

Mr. KEATING. That is very interesting.

Mr. GREMILLION. I want to clear up something; I do not want to be misunderstood.

A minute ago I said I agreed with your proposal, and so forth. But I agree with it completely to let us, the State of Louisiana, in that agreement, handle our affairs as we see fit. I further make that plain.

Mr. ROGERS. I wanted to ask this question:

I believe you stated that if, for example, the Supreme Court stands firm in its decision heretofore made, and these cases are pending, the three separate cases, that if those decisions stood, that then you would construe that to mean that the schools, as far as the court is concerned, that all school district would be integrated, so to speak?

Is that your answer?

Mr. GREMILLION. I personally believe that that would be the effect of such a decision; yes.

Mr. ROGERS. Now let us take an example of some county that is not affected by this lawsuit.

Mr. GREMILLION. You misunderstand me, Mr. Rogers.

I am telling you that I believe when the fifth circuit court of appeals rendered the decision in the Orleans case, that affected every school board in the State of Louisiana.

Mr. ROGERS. Therefore, it would affect every school board in the State of Louisiana.

Now let us take some school board that was not a party to this action, and suppose that they refused to go ahead with integration; could you cite them for contempt of court in not living up to this court decree?

Mr. GREMILLION. I cannot answer that question because I do not think there is any such authority.

In the first place, you are assuming that somebody in Louisiana is going to violate a law, or you are assuming that they are going to try to defy an edict of the court.

I do not believe our people are that kind of people.

But I cannot answer that because I do not know what the people of Louisiana are going to do, no more than I know what the people of Florida or Mississippi or Tennessee are asking to do.

Mr. ROGERS. The point I am trying to get to is what method would the court have to enforce this decree to a school district which is not a party to this particular suit?

What legal method could they adopt?

Mr. GREMILLION. The court would certainly have its powers of contempt, just like it did in the Tennessee case.

Mr. ROGERS. Yes. But these parties are not parties.

Mr. GREMILLION. What parties?

Mr. ROGERS. The ones that are not a party to this suit.

Mr. GREMILLION. I think your question is a moot question, Mr. Rogers.

Mr. ROGERS. No. Now, the Louisiana law, as I understand it, now permits segregation; does it not?

Mr. GREMILLION. Yes.

Mr. ROGERS. And according to your testimony it is not likely that the people of Louisiana are going to direct their legislation to repeal those laws.

Mr. GREMILLION. Correct.

Mr. ROGERS. Now, if this decree of the Supreme Court is to become effective throughout the State of Louisiana what is the machinery for the enforcement of this decree in the State of Louisiana to any schoolboard or any school district that is not a party to these particular suits?

Mr. GREMILLION. Well, I do not think that there is any particular positive law that would avail such a situation as you suggest, and I do not believe that this particular legislation will do it either.

Mr. ROGERS. No.

Mr. GREMILLION. You cannot cite for contempt people who are not a party to the court action.

Mr. ROGERS. They may do that in Tennessee.

Mr. GREMILLION. Yes; but it is not legal, and they are trying to get rid of it, I understand. I volunteered to defend them. I was one of the parties who offered to defend them. The cases have been passed and I venture to say I doubt it will ever come up.

Mr. ROGERS. The point I am getting at is that there was a contempt proceeding instituted in that case. If the school districts in the respective parishes of Louisiana do not integrate, then how is anybody going to integrate?

Mr. GREMILLION. They just have to file a suit against them, that is all. That is what the courts are for.

Mr. ROGERS. In other words, the only way they could do it would be to file a suit against each individual one, each district.

Mr. GREMILLION. That is correct.

Mr. ROGERS. That having been accomplished, then if there was a violation by party, not a defendant in that particular district, the court then would be powerless to bring them in and cite them for contempt because they are not a party to the action.

Mr. GREMILLION. That is true, Mr. Rogers, but the same thing is true with every other law. You cannot convict a man without a hearing. You cannot convict a person without a trial. I do not believe that this legislation or any other legislation is going to cure all of those problems.

Mr. ROGERS. I know. But as far as this legislation is concerned, it has nothing to do with the integration.

Mr. GREMILLION. That is correct.

Mr. ROGERS. Mr. Keating has three objectives. One is to set up the Commission. One is to grant the injunction for violation of certain statutes. And the other is to permit the Attorney General to move in in election. That is about all there is to Mr. Keating's bill.

But the Commisison is to make a study and, of course, we are confronted with the proposition as to whether or not it is necessary to make the study and some testimony has been given to the effect that we have this problem, which we must solve.

What I am trying to find out from you is what is the best way that it can be met without investigations by this Commission to ascertain the true facts and circumstances.

Mr. GREMILLION. Well, I actually believe, if there has to be some relief on it, Mr. Rogers, I think that a Commission to study these problems would be most likely the best solution, rather than positive enactment of laws at these particular times, because you have problems that we probably are not even discussing or do not even think about at this particular moment that are going to come up. And I actually believe that if some relief is to be sought or if it is necessary, that the Commission's idea of studying it would probably be able to get to the meat of the thing and the solution of it a lot quicker than a trial and error method.

The CHAIRMAN. Are you in favor of the Commission?

Mr. GREMILLION. Not under the present bill, no; not with the powers that it has at the particular moment, but I would be in favor of the Commission to study the matter and make recommendations to the Congress.

The CHAIRMAN. That is all this Commission does.

Mr. GREMILLION. Well, then, I would be in favor of such a commission; yes. But that is not what Mr. Rogers—I do not think that Mr. Rogers said that, though.

Mr. ROGERS. You and I as lawyers recognize the Supreme Court decision in 1954 made some judgemade law as we refer to it as lawyers.

Mr. GREMILLION. That is correct; yes, sir.

Mr. ROGERS. And as they made it they presented a problem. That problem is how was this judgemade decree to be carried out because, as you indicate, and I think as all lawyers know, once the Supreme Court of the United States speaks, until they speak in a different vein, that is the law of the land. Now we have a law of the land set up by this judgemade law.

How to best enforce the judgmade law is a problem that we are confronted with many times, particularly this committee, and we are anxious to find out what is the best method to approach and solve that problem.

Mr. GREMILLION. I understand what you are getting at, but now, as I understand this thing, we are talking about integration——

Mr. ROGERS. Yes.

Mr. GREMILLION. In the educational field, and I do not think that that actually relates to these bills.

Mr. ROGERS. No; only——

Mr. GREMILLION. So we are really talking about two different things. But such a commission, as is proposed by Mr. Keating—and I talked to Congressman Willis, from Louisiana, about this, and I understand that it is his idea that if you are going to appoint a commission to study the problem, go ahead and do it, but omit the other parts of the bill. And I will tell you quite frankly if you are going to set up a commission to do so, do it, and let's look into the problem and see what can be done.

Mr. ROGERS. Thank you.

The CHAIRMAN. Mr. Attorney General, we have two more witnesses now. It is 4 o'clock. You have not finished reading your statement.

Mr. GREMILLION. I have the balance of my statement. I never did get a chance to read it. We went off on integration. It will only take me a minute. I would like to finish it if you don't mind.

The CHAIRMAN. You go ahead. Suppose you finish it. We will not question you until you have completed it.

Mr. GREMILLION. I understand that there have been many able State and National officers who have preceded me to this witness stand. These witnesses, from the accounts of the press which I have read, have voted most of the law and many of the facts pertinent to this legislation. I would only be repetitious and it would border on boredom to reenunciate these statements now. For that reason, I am refraining from a discussion on the law of States rights and upon the principles in which we sincerely believe. I know that you are aware of this.

I thought that it would be useful to this committee for me to show that the State of Louisiana, since the Civil War, has recognized the responsibility that it has for every citizen and that it has ably provided for equal protection for all of its citizens. This has been done without the necessity of Federal intervention, which has not been necessary. If these principles and ideas, such as we have developed, are allowed to develop in their own course and without Federal interference, their permanency will be insured.

In summary, I would like to state to the members of the committee that this proposed legislation is unnecessary and would prove a burden on the people of Louisiana, because—

1. All citizens have unrestricted privileges to vote and to participate in the governmental affairs of Louisiana.

2. All citizens in Louisiana enjoy unexcelled advantages, such as charity hospitals, charity ambulances, and welfare benefits which is not surpassed by any State in this Nation.

3. Educational benefits to all races are not excelled by any State.

4. Participation in government service, whether it be grand jury, petit jury, or service on the school boards in the various districts of the State, has not been denied to anyone.

Therefore, I can with all good conscience say that Louisiana does not need this legislation and does not care to accept the inherent dangers to its citizens that this proposed law contains.

I will be hapy to answer any questions that the committee might see fit to ask me.

And I thank you so much for hearing me.

Now, may I make 1 or 2 more comments?

Please do not attach too much significance to this Monroe affair in Ouachita Parish about which you already received testimony. An occurrence like that is typical in any State where political battles are involved. I personnaly know that that was a fight between 2 candidates in the mayor's race, and 1 candidate had the Negro votes and the other used this means of getting them off until that election was held. I regret that that had to happen. But do not judge the State of Louisiana by it. It could happen in any other State in the Union where you have politics. See what I mean?

The CHAIRMAN. Yes, sir.

Mr. GREMILLION. So do not pay any attention to that Monroe affair. That is strictly politics, and that is why the people are back on the rolls there today.

There were a lot of white people knocked off those rolls. When you questioned me about it I forgot it at the time. On the very day of the election, I had a call from the registrar of voters in Monroe about it.

All these were white people. They lived in a small area outside the city limits, voting for the parish.

Incidentally, my side lost. There were about 200 affected by the above incident. That was nothing but a local political battle that could happen in any State of the Union. Thta is not typical of voting rights in the State of Louisiana.

Also, in the Monroe affair there were two suits filed against the registrar of voters in the Federal Court. Both have been dismissed. The Federal judge down there upheld the action of the registrar of voters as being within the law.

Any other questions you have, gentlemen?

The CHAIRMAN. I guess not.

We thank you for your very frank, forthright, as well as forceful statement.

Mr. GREMILLION. Thank you, Mr. Chairman. It has been a pleasure to be here.

The CHAIRMAN. We like to have men like you before us.

Mr. GREMILLION. Thank you, sir.

The CHAIRMAN. The Chair wants to anounce the unavoidable absence of our colleague, Mr. Ed Willis, who is presently engaged out of the City in work on the Un-American Activities Committee and therefore cannot be present.

Our next witness is a distinguished representative from Alabama, Mr. George W. Andrews.

STATEMENT OF HON. GEORGE W. ANDREWS, MEMBER OF THE HOUSE OF REPRESENTATIVES FROM THE THIRD CONGRESSIONAL DISTRICT OF THE STATE OF ALABAMA

Mr. ANDREWS. Mr. Chairman and members of the committee, I want to thank you for the opportunity you have given me to appear before you and to express my opposition to the pending bill known as the civil rights bill.

I have had the pleasure of representing the Third District of Alabama in Congress since 1944.

As you know the Negro race is very populus in the State of Alabama. The 1950 census shows that the total white population was 2,079,591; the colored population was 979,617.

Now the majority of those Negroes live in south Alabama. The ratio is much greater in south Alabama than north Alabama.

I have lived in Alabama all my life. I do not recall any racial trouble in Alabama until after the Supreme Court decision of 1954.

I frankly can see no good that will be served by these bills if they become the law.

We have counties in Alabama, Mr. Chairman, where the Negro race outnumbers the white 4 and 5 to one.

Now you talk about integrating schools. Our people do not think it can be done and we do not plan to integrate.

This question has worried me a long time, as I stated a minute ago, and last year I offered a bill in Congress which came to this committee and on which hearings were never held, which in my opinion would give us the relief that we need in Alabama far more than the so-called civil rights bills will do.

We have a tremendous problem down there and any interference from Washington adds to that problem. I introduced a bill last year and reintroduced it on Monday of this week. That bill is before your committee now. It is H. R. 4672. And it provides for the creation of new commission in Government to be known as the Human Resettlement Commission. It is patterned after the Displaced Persons Commission bill.

It simply provides this: That three Commissioners will be appointed by the President and confirmed by the Senate; that regional and district offices will be set up; and that any person who appears before the Commission or officers of the Commission and proves to the satisfaction of that Commission, first, that he is a worker, that he is a man who has a reputation of working, and second, that he is unhappy with local laws, customs, or traditions existing in the State where he then resides, will be eligible for a long-term low interest rate Government loan in an amount sufficient to move himself and his family to any State of his choice and it will be the duty of the Commission to assist him in deciding where he shall move.

The CHAIRMAN. Would that not have a very deleterious effect upon Alabama in that you would lose many of your workers?

Mr. ANDREWS. No, sir; I do not think so.

The CHAIRMAN. For the industrial advance of your State.

Mr. ANDREWS. As a matter of fact, very few would take advantage of the provisions of the bill.

Mr. KEATING. On the contrary, after the nice things the attorney general of Louisiana said about our chairman, they might be moving all of Louisiana to Brooklyn.

Mr. ANDREWS I would like to send him some.

The CHAIRMAN. I do not mind them. I would accept them, if you send them, provided they are all workers and not shirkers. We will welcome them.

Mr. ANDREWS. Mr. Chairman, let me say one further word in connection with this bill. You asked if they would all leave. I say very few of them would leave.

The CHAIRMAN. That would be an advantage to you then?

Mr. ANDREWS. All right. I have in mind a county in Alabama where the ratio is 5 to 1 colored. There are only 5 schools in that county, white schools; there are 34 colored schools.

Now the figures from the superintendent of education in that county show that the Negro teachers receive more per capita than do the white teachers because more of them have their master's degrees. The figures of that county show that the Negroes contribute 2 percent of the tax dollar that supports those schools and yet the cost of operating those Negro schools is 76 percent of the tax dollar.

I think that you could go through that county with the best investigative team in America today looking for people, whether white or colored, who are unhappy with the local laws, customs, and traditions of that State and that county, and I do not think you would find a handful.

But, if you found a Negro who had children and who was unhappy living down in Alabama because of the fact that his children could not go to a white school and you gave him ways and means of leaving there and going someplace up in New York, or out in California, or out in the State of Washington, where he could send his children to school

with the white children—and the only reason he does not leave today he does not have ways and means to leaving, and if you had this Commission who would assist him and lend him the money, you would do both races a great service.

I would like to point out to you that the percentage of Negroes down South is entirely out of proportion of what it should be in America.

Here are the figures for the State of New Hampshire for 1950, furnished me by the Legislative Refenrence Division of the Library of Congress. In New Hampshire they had 532,275 white people and 731 Negroes.

In your State of New York, and I think most of them are in New York City, in 1950 there were 13,872,095 white people and 918,191 Negroes, which is far less than 10 percent of your total population.

So, I think it is the purpose of this bill to help the Negro race in America——

The CHAIRMAN. That nine-hundred-odd thousand that lived in New York, most of them, as you say, lived in New York City, so that New York City has about 5 million, I suppose—5 million to 900,000——

Mr. KEATING. Seven million.

The CHAIRMAN. Seven million; all right.

We have schools in certain sections of New York City where there are more colored than white. There are quite a number of areas where white children go to the schools——

Mr. ANDREWS. I have no complaint with the citizens of New York. If they want to operate any integrated schools that is their privilege. That is their right that the State has and I hope will always have. By the same token I think if the people of Alabama want to operate segregated schools, that is their State's right.

Out in the great State of Colorado they have a total population white of 1,296,653 and only 20,177 Negroes.

So I say if you want to help the Negroes and I think that is the purpose of these bills you have a far greater opportunity in my humble opinion to help them by adopting this H. R. 4672 than you have by passing any of the civil-rights bills.

You heard the State officials from the South come up and tell you that these bill were crippling their efforts to see that we have law enforcement down South. You do not have the problem that we do.

Now, there is ample precedent for this bill that I introduced to create the Human Settlement Commission. We sent Oakies to the west coast. Following the end of World War II we had the Displaced Persons Commission that brought literally thousands of foreigners into this country.

And why did they come? They were unhappy with local laws, customs, and traditions that prevailed in the countries from when they came.

And I say again, Mr. Chairman, having lived in the South all my life——

The CHAIRMAN. It was not merely due to dissatisfaction with local conditions. Most of them were persecutees.

Mr. ANDREWS. Many people think our Negroes are persecutees in the South.

The CHAIRMAN. They came here because of persecution or fear of persecution.

Mr. ANDREWS. Many people have that opinion about Negroes in the South.

I would like you to search the record and see how many Negroes have come up here from the South advocating this bill. I do not recall having heard of a single one. They do not want it. Oh, they have some outside agitators that come in and try to make them unhappy.

So I say to you, Mr. Chairman, that if this committee must pass a bill for the benefit of the Negroes of the South and that is what these bills are designed to do, let me suggest to you consider seriously H. R. 4672. And I think if you pass that bill and it becomes the law that then we will have some constructive legislation, something you can put your teeth in and not add to confusion but clear up what might be a confused situation in some sections today.

Again I would like to thank you for the opportunity of appearing before you.

The CHAIRMAN. We are always glad to have Members of the House before us, and we are glad specifically that we had you.

Mr. ANDREWS. Thank you, sir.

The CHAIRMAN. Thank you very much.

Mr. Clarence Mitchell?

STATEMENT OF CLARENCE MITCHELL, DIRECTOR, WASHINGTON BUREAU, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. MITCHELL. Mr. Chairman and members of the committee, I am Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People.

I thank you very much for this opportunity to file for the record some documents that I would like to be able to identify. Before I do that, I would like to thank you, Mr. Chairman, for your remarks the last day this committee sat, when you mentioned for the record specific illustrations of the kind of work that our organization seeks to do and the fact that outstanding Americans are interested in the kind of program that we attempt to promote.

The CHAIRMAN. At that point I would like to put in the record a brochure prepared by the NAACP, entitled, "An American Organization." It sets forth the history of your organization, and that the NAACP is not, and never has been listed as subversive by any Federal official or agency, is not now, and never has been, in any measure dominated by the Communist Party, has a long record of fighting the Communist Party, and has firmly and consistently turned back efforts of the Communists to infiltrate the organization, from its beginning, enjoyed the support of eminent Americans of both races and all faiths, has been exonerated by the Nation's press of the Communist smear, and the NAACP makes no concession either to the left or the right.

I shall put that right in the record.

(The information follows:)

NAACP—AN AMERICAN ORGANIZATION

The National Association for the Advancement of Colored People is an American organization. Its philosophy, its program and its goals derive from the Nation's hallowed democratic traditions.

From the beginning, the task of the NAACP has been to wipe out racial discrimination and segregation. It has worked always in a legal manner, through the courts and according to Federal and State laws and the United States Constitution. It has also sought the enactment of new civil rights laws and the development of a favorable climate of opinion.

The association, as the record plainly shows, has won many battles in the long struggle for first-class citizenship for Negro Americans. These successes have aroused the anger of those who believed in the Jim Crow way of life.

The leaders of this outmoded system have declared war on the NAACP because it has spearheaded the fight for equality. They have passed laws, invoked economic sanctions, and resorted to threats, intimidation, and violence in their efforts to wreck the NAACP and halt the march of progress.

In recent years the defenders of this lost cause have sought to smear the NAACP by falsely linking it with the Communist Party.

The more reckless white supremacy spokesmen have openly charged that the NAACP is "Communist-dominated" and listed as "subversive." The more cautious have tried to convict the NAACP of "guilt by association," claiming that certain officers and members have, at one time or another, been affiliated with organizations subsequently listed by the United States Attorney General as "subversive."

The NAACP position on the Communist Party is clear and unequivocal.

1. The NAACP is not, and never has been, listed as subversive by any Federal official or agency

Neither the United States Attorney General nor the House Un-American Activities Committee includes the NAACP on a list of subversive organizations. Both the House and Senate committees empowered to investigate subversive activities have at times been headed by such avowed white supremacists and declared enemies of the NAACP as Representative John Rankin and Senator James O. Eastland, both of Mississippi. The NAACP has never been called before either of these committees because there has never been any evidence of Communist domination of the organization.

Citation by the House Un-American Activities Committee is not proof of subversion. Before each citation the committee places the following notice:

"The public records, files, and publications of this committee contain the following information concerning the subject individual. This report should not be construed as representing the results of an investigation by or findings of this committee. It should be noted that the individual is not necessarily a Communist, a Communist sympathizer, or a fellow traveler unless otherwise indicated."

A citation may merely be a record that some unnamed person has made an accusation. Anyone can be so cited.

Senate committees, after investigation, have found so little substance in some of these citations that they have approved confirmation for high Federal appointment of certain persons so named.

2. The NAACP was established and its basic antisegregation program formulated before the Communist Party of the U. S. A. was organized

The NAACP grew out of a conference called on February 12, 1909, the centennial of Abraham Lincoln's birth. Its basic policies were formulated in the early years. The association's annual report for 1913 declared: "We intend to push vigorously the fight against segregation in all its forms."

It was not until 1919, after World War I, that the Communist Party was organized in the United States It was not until years thereafter that the Communists initiated an active program to enlist the support of American Negroes.

3. The NAACP is not now, and never has been, in any measure dominated by the Communist Party

Because of the NAACP's strongly pro-American program and policies, the organization has been under constant attack by the Communist press and spokesmen who have repeatedly branded the association as "reformist" and "reactionary." Leaders of the NAACP have been called "tools of capitalism," "Wall Street stooges," and "collaborators with the lyncher-bosses of the South."

A 1932 Communist pamphlet, Negro Liberation, by James S. Allen, a party spokesman, asserts: "An imperialist policy, softened with meaningless mumblings of protest, is followed by National Association for the Advancement of Colored People and its leaders."

Reporting to his party's eighth convention in Cleveland, Ohio, April 2–8, 1934, Harry Haywood, a longtime Communist functionary, said:

"Among the Negro reformist organizations we find the chief role is still allotted to the National Association for the Advancement of Colored People. In the leadership of this organization, we find Negro bourgeois reformists of the type of Walter White, Pickens, Schuyler, DuBois en bloc, with white liberals ('enlightened' imperialist elements) of the type of Spingarn, Mary White Ovington, etc, and even outspoken imperialist politicians such as Senator Capper, Governer General Murphy of the Philippines, etc . also open Negro reactionaries of the type of Dr Moton, of Tuskegee"

4 The NAACP has a long record of fighting the Communist Party

The unscrupulous tactics of the Communist Party in the notorious Scottsboro case of the early 1930's were exposed and attacked by Walter White, the association's late executive secretary. Writing in Harper's magazine of December 1931, Mr. White charged: "* * * that at least some of the Communists did not want the nine boys saved but sought instead to make 'martyrs' of them for the purpose of spreading Communist propaganda among Negroes" Later, in his autobiography, A Man Called White, published in 1948, he denounced "the cynical use of human misery by Communists in propagandizing for communism."

The association's official organ, the Crisis, asserts editorially in September 1931, that for 20 years the NAACP "has fought a battle more desperate than any other race conflict of modern times and it has fought with honesty and courage. It deserves from Russia something better than a kick in the back from the young jackasses who are leading communism in America today"

Time and time again, the Crisis scored the Communists for their scandalous tactics and warned against efforts to mislead Negroes An editorial in the Crisis for March 1949, written by Roy Wilkins, then editor, pointed out that the purpose of the Communists in trying to gain a foothold in the association "is not to build a better NAACP to fight more effectively for civil rights for Negroes under the American Constitution, using legitimate American methods, but to operate one more front group to confuse and embarrass Americans and the American Government in the present contest of ideologies."

When the Communists, in 1949, demanded, in the name of "unity," a place in the NAACP-sponsored civil-right mobilization, Acting Executive Secretary Roy Wilkins promptly and bluntly rejected the demand Responding to William L. Patterson, executive director of the Civil Rights Congress, Mr. Wilkins reviewed the history of Communist betrayal of the Negro and attacks upon the NAACP.

"In the present civil-rights mobilization," the NAACP leader told the Communist spokesman, "we have no desire for that kind of cooperation, or that kind of 'unity' We do not believe it will contribute to the success of the campaign. On the contrary, we believe it will be a distinct handicap * * * It seems to us that the organizations of the extreme left, when they campaign for civil rights, or in behalf of a minority, do so as a secondary consideration, activity upon which is certain to be weighted, shaped, angled, or abandoned in accordance with the Communist Party 'line' We can have no truck with such unity"

Writing in the American Magazine of December 1951, Mr Wilkins said:

"The greatest failure of the American Communist Party has been the complete fizzle of its attempt to recruit millions of American Negroes into a fifth column for Stalin * * * Their colossal failure can be chalked up to one simple fact which the Communists either ignored or just did not comprehend: The American Negro is an American The vast majority of our colored citizens have never even been fellow travelers, a few have been hitchhikers for short stretches when it served a particular purpose True, they are dissatisfied with their treatment, often angry and bitter, but at bottom they are loyal to America and its ideals"

5. The NAACP has firmly and consistently turned back efforts of the Communists to infiltrate the organization

Because the Communists have periodically tried to penetrate and capture the NAACP, the association's annual convention in Boston, June 1950, passed a resolution "directing and instructing the board of directors to take the necessary action to eradicate such infiltration and, if necessary, to suspend and reorganize, or lift the charter and expel any unit, which, in the judgment of the board of directors, upon a basis of findings of the aforementioned investimation and study of local units, comes under Communist or other political control and action"

Previously, in 1947, an NAACP west coast regional conference had passed a resolution "condemning and actively opposing" efforts of the Communist Party to influence the local units of the organization

Meanwhile, NAACP leaders and Crisis editorials repeatedly pointed out the danger of the Communists and urged the membership to be on the alert to keep them out of the organization.

Unable to make a successful penetration of the NAACP, the Communists have on several occasions tried to set up competing organizations under their direct control Among these defunct organizations have been the American Negro Labor Congress, League of Struggle for Negro Rights, National Negro Congress, and the Civil Rights Congress

6. The NAACP has, from its beginning, enjoyed the support of eminent Americans of both races and all faiths

Many famous Americans have held membership in the NAACP, some of them serving as officers or members of the national board or of special committees. Others have been presidents of local branches. Some have expressed their appreciation of the work of the NAACP in addresses before association conventions and conferences.

Among the 53 outstanding educators, publicists, clergymen, and social workers who signed the original call for the organization of the NAACP were Jane Addams, famed head of Hull House in Chicago; Samuel Bowles, publisher of the Springfield (Mass.) Republican; Prof. John Dewey, of Columbia University; William Lloyd Garrison, the Boston abolitionist, and his grandson, Oswald Garrison Villard, publisher of the New York Evening Post; William Dean Howells, at that time the Nation's leading literary critic; Rabbi Stephen S. Wise; Bishop Alexander Walters; Mary White Ovington; Lincoln Steffens; President C. F. Thwing, of Western Reserve University; Dr. Henry Moskowitz; Rev. John Haynes Holmes; William English Walling; Ida Wells Barnett; and many others

The association continues to enjoy the support of men and women of the caliber of the signers of the original call. Distinguished persons in government, in business, the arts, science, organized labor, the church, education, and the law serve the NAACP in various capacities. Both President Eisenhower and former President Truman have addressed NAACP meetings. These and other Presidents have regularly sent messages of greetings to NAACP conventions

Mayor Robert F. Wagner, of New York City, has annually proclaimed NAACP Week, as have mayors of numerous other American cities. In his 1956 proclamation, Mayor Wagner cited the NAACP as "an American organization working for American goals within the framework of the American constitutional system"

The late Senator Arthur Capper, Republican, of Kansas, was a member of the association's board of directors and was at one time the president of the NAACP branch in Topeka, Kans The late Harold Ickes, who served as Secretary of the Interior under President Franklin D. Roosevelt, was at one time president of the Chicago NAACP branch.

J. Edgar Hoover, whose business as head of the Federal Bureau of Investigation is to know who is and who is not a Communist, has said:

"Equality, freedom, and tolerance are essential in a democratic government. The NAACP has done much to preserve these principles and to perpetuate the desires of our Founding Fathers."

7. The NAACP has been exonerated by the Nation's press of the Communist smear

The press of the country, including the prosegregation newspapers of the South, has generally recognized that the attempt to pin the Red label on the NAACP is fraud Writing in the New York World-Telegram and Sun of May 19, 1956, Frederick Woltman, who won a Pulitzer prize in journalism for exposing Red infiltration, said that, of the various organizations the Communists tried to penetrate, "the NAACP was one of the least receptive." Further he wrote:

"* * * NAACP's top leaders have sternly resisted Communist inroads. Not only are they opposed to the philosophy and strategy of communism, but they realize the Communists' first allegiance goes to Russia and world revolution. And that the Red tag would mean the kiss of death to their entire movement. Consequently, the Communists have waged intermittent war on Roy Wilkins, the late Walter White, and other NAACP officers."

Other newspapers have editorially dismissed the charges of Communist domination.

The Cheraw (S. C.) Chronicle: "It is simply not true that the NAACP is a Communist-inspired organization."

The Fayetteville (N. C.) Observer: "* * * let it be said that the charge of communism has not been proved against the National Association for the Advancement of Colored People"

The Springfield (Ill.) Journal: "If Attorney General Eugene Cook, of Georgia, has proof that the National Association for the Advancement of Colored People is a 'front and tool' for subversive groups in the United States, why didn't he cite chapter and verse to substantiate his claim? He has no such evidence, of course"

The Florence (S. C.) News: "The NAACP is highly unpopular in our Southland, but it isn't illegal. In spite of extreme speeches and editorials, it hasn't been properly identified as an arm of the Communist Party."

The Louisville (Ky.) Times: "The NAACP is not a conservative organization. But neither is it subversive. It has consistently fought attempts by Communists to gain inroads among Negroes. It is an aggressive organization. * * *."

The Greensboro (N. C.) Daily News: "* * * difference of opinion by no means justifies this campaign to smear the NAACP with the paintbrush of subversion. * * * J. Edgar Hoover, whose vigorous hostility to any organization even faintly tinged with communism is widely known, has frequently praised the NAACP."

8. The NAACP is a thoroughly American organization

In a keynote address opening the association's 40th annual convention in Los Angeles on July 12, 1949, Roy Wilkins eloquently summed up the Americanism of the Negro and the NAACP in the following memorable statement:

"In demanding these things—that our National Government enact a civil-rights program and that mobs, whether they be lynchers in Georgia or swimming-pool hoodlums in Missouri, be blotted out—we do not cry out bitterly that we love another land better than our own, or another people better than ours.

"This is our land. This is our Nation. We helped to build it. We have defended it from Boston Common to Iwo Jima. We have helped to make it a better land through our songs, our laughter, our expansion and clarification of its Constitution and its Bill of Rights, through our talents and skills, all the way from Benjamin Banneker, who helped to lay out Washington, D. C., to Ralph Bunche, who made peace a working reality in 1949.

"No; we are Americans, and in the American way, with American weapons, and with American determination to be free, we intend to slug it out, to fight right here on this homefront if it takes 40 more summers—until victory is ours."

9. The NAACP makes no concessions either to the left or the right

The business of the NAACP is to work for civil rights, for the elimination of racial barriers, for an America with full equality for all its citizens. It was founded for, and has adhered to, this high purpose. The association does not propose to be diverted from this goal by the enemies of our country, either of the left or the right. The association will not be intimidated by the threats and smears of the white-supremacy cabal. Nor will it let down the bars against the Red conspiracy. The association will continue to operate as an American organization.

Mr. MITCHELL. Thank you very much, Mr. Chairman. I would like also to offer a press release titled "NAACP Board Reaffirms Policy."

I would like to say, Mr. Rogers, we appreciate the statement that you made with reference to the recent announcement of the Communist Party about their activities in the field of civil rights. Our national board of directors had a meeting on Monday and in that meeting passed a resolution emphatically stating that we have never accepted, do not now want, and firmly reject any interference by the Communists or any other group of that type in the field of civil rights.

This is a problem that we as Americans will settle in the American way. That is why we are before this committee. That is why we go before the courts. We do not need any interference from Moscow or any other place in the world in order to settle the problems that we have in our own American household.

Mr. ROGERS. I thought that I read in the same newspaper about the adoption of that resolution. It was referred to in the statement

that was before us. That was the reason I wanted to make sure it got in the record. So, you have now straightened it out.

Mr. MITCHELL. Thank you.

The first document I would like to put into the record, Mr. Chairman, is the testimony of Mr. Warren Olney, Assistant Attorney General in Charge of the Criminal Division in the Department of Justice, before the Senate Subcommittee on Privileges and Elections.

This testimony is very pertinent because it deals with the matters that the attorney general from the State of Louisiana just finished testifying about. The Department of Justice, following through on a complaint which was submitted by our organization, uncovered the fact that some 3,000 Negroes had been deprived of the right to vote illegally.

The CHAIRMAN. Excuse me. I take it that this testimony today is in answer to the suggestion made by our distinguished colleague, Mr. Miller of New York, that you itemize cases where Negroes have been deprived of their civil rights.

Mr. MITCHELL. That is correct, Mr. Chairman. Thank you for giving us that opportunity.

I would like to explain for the members of the subcommittee, in the interest of trying to make things move with some speed, we refrained from bringing people up here and presenting a lot of detailed testimony because to us it seemed so obvious that everybody knew what is happening.

Now that the question has been raised, we thank you for this opportunity to present these specific things which we think no reasonable person could disagree with.

The CHAIRMAN. I think it was my fault that you did not do that. But since the question has been raised, you are now here to present some in detail.

Mr. MITCHELL. That is correct, Mr. Chairman.

I might say that this particular matter in Ouachita Parish, which the attorney general of Louisiana disposed of so lightly by saying it was just a political fracas of one kind or another, is not confined to that parish.

Mr. Olney's figures indicate that some 3,000 Negroes were deprived of the right to vote in Louisiana because of the activities of the white citizens' councils.

Mr. KEATING. Not in just that one parish.

Mr. MITCHELL. In that one parish.

Mr. KEATING. In that one parish?

Mr. MITCHELL. Yes, sir.

Senator Rainach, is one of the members of the Louisiana Legislature, who has carried the fight against integration in Louisiana. He announced toward the end of December that throughout the State, 11,000 Negroes had been taken off the books. He announced as of January 1, there would be a stepped-up campaign to take more Negroes off the books.

The attorney general indicated that white people were taken off the books in this parish, that I referred to previously, Ouachita Parish. Mr. Olney's testimony very clearly points out that the Negroes were taken off but the white people were not taken off the books. Mr. Olney's testimony also indicates that this was a flagrant illustration

of illegal action to deprive people of the right to vote It is perhaps the best testimony that has been presented at this hearing in favor of these bills.

That the attorney general of Louisiana would come here and mention that they had been able to get indictments in spite of the flagrant violations of the law in these cases shows the need for a civil remedy.

Mr. KEATING How many of those people have been put back on the rolls, now, do you know?

Mr. MITCHELL So far as we know, none have been put back.

Mr. KEATING. He told us 99 per cent of them.

Mr. MITCHELL. I am reasonably certain that is not correct, because the Department of Justice has been seeking action in these cases and if anybody has gone back on the books, they have not been so informed.

I would venture that the 99 percent estimate could not be substantiated by the attorney general of Louisiana.

I would say further, Mr. Keating, that if he could substantiate the fact that these people had been put back, it is a matter which bears on the testimony of Mr. Brownell, in which he pointed out that the great difficulty is that under present law remedies cannot be provided in time to do any real good.

Mr. KEATING. I agree with you on that. It is not an answer to say they had been put back. That is, it is only a partial answer. I was interested in the fact to whether or not they were put back, and then I asked him that and he said practically all have been put back and he also said there had been no other cases in Louisiana of a similar situation.

Do you have chapter and verse on that as to other areas?

Mr. MITCHELL. Yes, Mr. Keating. The assistant attorney general's testimony points out that this is a kind of general thing in Louisiana.

If I may, I would just like to read this paragraph.

The CHAIRMAN. Where was that testimony given?

Mr. MITCHELL. This was given before the Senate Subcommittee on Privileges and Elections on October 10, 1956.

The CHAIRMAN. Do you have a copy of it there?

Mr. MITCHELL. Yes. I would like to file it.

The CHAIRMAN. We will make that part of our record.

(The information follows:)

[News from NAACP, New York, N. Y., November 15, 1956]

NAACP BOARD REAFFIRMS POLICY AND PROCEDURES

NEW YORK, November 15.—A reaffirmation of the basic policy and procedures of the National Association for the Advancement of Colored People was made public here today by Dr. Channing H Tobias, chairman of the association's board of directors.

The one-page statement was adopted at the board's regular monthly meeting on November 13 in answer to "some charges, stimulated by the school desegregation controversy, which seek to label this association as concerned with stirring up litigation and soliciting plaintiffs to file lawsuits." The charges, the board resolution states, "are based upon ignorance of our function or hostility to our basic purposes."

Citing the association's articles of incorporation, the document sets forth as follows NAACP's basic and firmly fixed operational procedure:

1. The primary function of the NAACP is to remove barriers of racial discrimination through normal democratic processes, informing legislatures of the importance of enacting laws securing civil rights and also the executives of their statutory, administrative, or inherent authority to end discrimination

2. The NAACP also seeks to inform the public of facts about discrimination, educate persons as to their rights, encourage their exercise of these, and aid in seeking to redress grievances as to racial discrimination before appropriate local, State, and Federal authorities.

3. The NAACP is ready, within the limits of our resources, to aid aggrieved persons where all other avenues of redress are closed, to seek redress through court action, if requested by the real parties in interest, their attorney or legal representative, by furnishing financial assistance and authorizing our counsel to give assistance or advice but only where the question involves a matter of racial discrimination of primary and general importance to the citizenship status of Negroes.

No officer, employee, member, branch, or other person connected with the association is permitted to solicit plaintiffs for litigation or otherwise encourage persons to file lawsuits. When court action is involved, this association will do absolutely nothing unless the aggrieved party seeks its assistance

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[News from NAACP, New York, N. Y., November 29, 1956]

VIRGINIA'S ANTI-NAACP LAWS FACE TEST IN FEDERAL COURT

RICHMOND, VA., November 29.—In a frontal attack upon a package of seven anti-NAACP statutes recently enacted by the Virginia Legislature, attorneys for the National Association for the Advancement of Colored People today filed a complaint in the United States district court here asking the court to declare the new punitive laws unconstitutional.

The complaint, filed by Oliver W. Hill, NAACP attorney of Richmond, and Robert L. Carter of New York, NAACP general counsel, further asks the court to enjoin State and local law-enforcement officers from enforcing the statutes which, the complaint charges, violate the constitutional rights of citizens as guaranteed by the 14th amendment and article I of the United States Constitution.

The laws were enacted during a special session of the general assembly last September. The openly avowed purpose of the legislation is to curb the NAACP. The laws (1) prohibit the solicitation of funds to defray the costs of litigation in anti-discrimination suits; (2) ban public advocacy of desegregation of the public schools in compliance with the Supreme Court ruling; (3) penalize attorneys who accept fees raised by persons or organizations not directly involved in the litigation; (4) restrain organizations from encouraging citizens to secure their rights in the courts; (5) forbid giving financial assistance to persons involved in lawsuits against the State of Virginia; (6) require a public listing of the NAACP membership in the State; and (7) demand a filing of all moneys raised and expended by the NAACP in Virginia for any purpose.

The NAACP in Virginia, Attorneys Hill and Carter assert in the complaint, had raised money for legal cases and proposes to continue to contribute, from funds solicited for the purpose, toward the expense of litigation and counsel fees in pending desegregation cases.

Moreover, they point out, the NAACP and its members are engaged in a legitimate activity. They merely are seeking to secure full enforcement of constitutional rights of colored citizens to democracy's general benefit. In seeking to secure those rights in concert with other like-minded persons, plaintiffs and its members have violated no legitimate interest to the State.

The NAACP in Virginia, the complaint points out, has for many years pursued, without State interference, its objective—the abolition of compulsory racial segregation in all public facilities, institutions, and services. Members and contributors to the NAACP have sought to give aid in the overall struggle in the United States for a society in which considerations of race and color will have no part. No questions were ever raised concerning the legality of this activity in Virginia or elsewhere until the Supreme Court decision on May 17, 1954, outlawing segregation in public schools.

Further, the complaint charges, this punitive legislation was designed to destroy the NAACP, and insulate continued governmental enforced school segregation against court attacks by United States citizens and residents of this State.

The NAACP attorneys asked for an early hearing of the complaint before a three-judge district court.

SUPPLEMENTAL STATEMENT BY ASSISTANT ATTORNEY GENERAL WARREN OLNEY III, IN RESPONSE TO QUESTIONS BY MEMBERS OF THE SENATE SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS, OCTOBER 10, 1956

No study of the political practices followed during the course of the 1956 presidential and senatorial elections could possibly be adequate or complete without including the mass disfranchisement in certain communities by unconstitutional means of thousands of legally registered voters. It presents a problem of major concern to the whole Nation and would appear to lie within the investigative jurisdiction of the Senate Subcommittee on Privileges and Elections.

I should like to illustrate what is going on, as well as to suggest how the subcommittee might be of public service by giving the facts on just one small parish. I will take as illustrative, Ouachita Parish in the State of Louisiana.

On January 17, 1956, there were approximately 4,000 persons of the Negro race whose names appeared on the list of registered voters of Ouachita Parish as residing within wards 3 and 10 in that parish. It would appear that these persons were and are citizens of the United States, possessing all of the qualifications requisite for electors under the Constitution and the laws of Louisiana and of the United States, because a system of permanent voter registration, provided for under the laws of the State of Louisiana, was in effect in Ouachita Parish and all of these persons had registered and qualified for permanent registration and had been allowed to vote in previous elections.

As of October 4, 1956, the names of only 694 Negro voters remained on the rolls of registered voters for wards 3 and 10 of Ouachita Parish, the names of more than 3,300 Negro voters having been eliminated from the rolls in violation of the laws of Louisiana, as well as those of the United States. This mass disfranchisement was accomplished by a scheme and device to which a number of white citizens and certain local officials were parties.

The scheme appears to have taken form as early as January of 1956, and its principal purpose was to eliminate from the list of registered voters of Ouachita Parish the names of all persons of the Negro race residing in wards 3 and 10, and thereby deprive them of their right to vote.

On March 2, 1956, a nonprofit corporation organized under the laws of the State of Louisiana, and called the Citizens Council of Ouachita Parish, La., was incorporated. Among its ostensible objects and purposes, as stated in its articles of incorporation, are the following:

"1. To protect and preserve by all legal means, our historical southern social institutions in all their aspects.

"2. To marshal the economic resources of the good citizens of this community and surrounding area in combating any attack upon these social institutions."

Notwithstanding these stated objects, subsequent developments have demonstrated that one of the principal objects and purposes of the Ouachita Citizens Council was and is to prevent and discourage persons of the Negro race from participating in elections in the parish.

The names of the officers, directors, and members of the Ouachita Citizens Council will be made available to the subcommittee if the subcommittee wishes them.

During the month of March 1956, the officers and members of the citizens council began to carry out their plan to eliminate the names of Negro persons from the roll of registered voters. This scheme consisted of filing purported affidavits with the registrar of voters challenging the qualifications of all voters of the Negro race within wards 3 and 10, and of inducing the registrar to send notices to the Negro voters requiring them within 10 days to appear and prove their qualifications by affidavit of three witnesses. The scheme further consisted of inducing the registrar to refuse to accept as witnesses bona fide registered voters of the parish who resided in a precinct other than the precinct of the challenged voters, or who had themselves been challenged or who had already acted as witnesses for any other challenged voter. Of course it was a part of this scheme that none of the registered Negro voters would be able to meet these illegal requirements and upon the basis of such pretext, that the registrar would strike their names from the roll of registered voters.

These people in the Ouachita Citizens Council appear to have succeeded either by persuasion or intimidation in procuring the help and cooperation of the election officials of Ouachita Parish.

In April and May of 1956, the registrar and her deputy permitted the officers and members of the citizens council to use the facilities of the office of the registrar to examine the records and to prepare therefrom lists of registered voters of

the Negro race. The citizens council was given free run of the registrar's office and was permitted to occupy the office and work therein during periods when the office of the registrar was not officially open to the public.

Between April 16, 1956, and May 22, 1956, the members and officers of the Ouachita Citizens Council filed with the registrar approximately 3,420 documents purporting to be affidavits, but which were not sworn to either before the registrar or deputy registrar of Ouachita Parish as required by law. In each purported affidavit it was alleged that the purported affiant had examined the records on file with the registrar of voters of Ouachita Parish, that the registrant named therein was believed to be illegally registered, and that the purported affidavit was made for the purpose of challenging the right of the registrant to remain on the roll of registered voters, and to vote in any elections. These purported affidavits were not prepared and filed in good faith, but were prepared and filed without regard to the actual legal qualifications of the registrants to whom they referred.

Prior to the filing of he purported affidavits, there were in ward 10 2,389 persons of the Negro race and 4,054 persons of the white race whose names appeared on the list of registered voters. The affidavits filed by the citizens council challenged all of the 2,389 Negro voters and challenged the qualifications of none of the 4,054 white voters registered in that ward. In ward 3 the citizens council filed purported affidavits challenging the qualifications of 1,008 out of the total of 1,523 Negro voters, but only 23 of the white voters who were registered in that ward.

The registrar, knowing that the pretended affidavits were not sworn to as required by law, and that the purported affiants had not in each case personally examined the records in the registrar's office pertaining to each challenged registrant, accepted the pretended affidavits for filing and mailed copies of them together with printed citations to the approximately 3,420 voters named therein, requiring them within 10 days to appear in the office of the registrar and to prove their qualifications. The citations and copies of the pretended affidavits were mailed to large groups of registrants at or about the same time with the knowledge that the ordinary facilities and personnel of the registrar's office would not permit the receiving of the proof of their qualifications from all of the registrants within the 10-day period. Of course it was intended that all challenged registrants of the Negro race who were thereby denied an opportunity to prove their qualifications would be eliminated from the roll of registered voters.

However, registrants of the Negro race responded to these citations in large numbers. During the months of April and May large lines of Negro registrants seeking to prove their qualifications formed before the registrar's office, starting as early as 5 a. m. But the registrar and her deputy refused to hear offers of proof of qualifications on behalf of any more than 50 challenged Negro registrants per day. Consequently most of the Negro registrants were turned away from the registrar's office and were denied any opportunity to establish their proper registration. Therefore the registrar and her deputy struck the names of such registrants from the rolls.

As to the Negro voters whose names have thus been stricken from the roll and who sought to reregister as voters, the registrar and her deputy, at the instigation of the citizens council and under the color of authority of the Louisiana Revised Statutes, required such applicants for registration to give a reasonable interpretation of a clause of the constitution of Louisiana or of the United States and no similar requirement was ordinarily imposed upon persons of the white race. Regardless of the interpretations given, the registrar and her deputy declared them to be unreasonable. In this manner Negro applicants for registration, although possessing all the legal qualifications for voters under the laws of Louisiana and of the United States, were denied their right to register and qualify as voters.

For this serious condition there is no adequate remedy presently available to the Department of Justice. A criminal prosecution begun after the election would not restore to the roll of registered voters of Ouachita Parish the names that have been unlawfully removed. It would not protect the integrity of the election of officers of the United States in the November election.

The Department of Justice has not been blind to the possibility that this kind of unconstitutional disfranchisement of citizens of the United States might occur and that more effective legal remedies are needed. The Attorney General in April 1956, presented proposals to both Houses of Congress for legislation which would authorize him to apply to the Federal courts for preventive relief

by way of injunction in cases such as this. In testifying in support of these proposals the Attorney General pointed out to the Congress that although under present statutes the Department can prosecute after such deprivations of the right to vote have occurred, the Department could not seek preventive relief when violations are threatened. The Attorney General then illustrated his point as follows:

"In 1952, several Negro citizens of a certain county in Mississippi submitted affidavits to the Department alleging that because of their race the registrar of voters refused to register them Although the Mississippi statutes at that time required only that an applicant be able to read and write the Constitution, these affidavits alleged that the registrar demanded that the Negro citizens answer such questions as 'What is due process of law?' 'How many bubbles in a bar of soap?' etc. Those submitting affidavits included college graduates, teachers, and businessmen, yet none of them, according to the registrar, could meet the voting requirements. If the Attorney General had the power to invoke the injunctive process, the registrar could have been ordered to stop these discriminatory practices and qualify these citizens according to Mississippi law."

The events which I have recited in Ouachita Parish, La., demonstrate how justified the Attorney General was in his plea to the Congress for legislation permitting him to seek preventive relief in such cases from the courts.

The disfranchisement of American citizens is by no means confined to Ouachita Parish or to the State of Louisiana. The Department is in receipt of a complaint under date of September 21, 1956, that a similar scheme using the same technique, is in operation in Rapides Parish, La., under the guidance of a white citizens council. It is alleged that within a 10-day period the council had wrongfully caused the elimination from the rolls of over 200 properly qualified and registered Negro voters.

On September 22, 1956, a similar complaint was received from Pierce County, Ga., it being alleged that in August the qualifications of approximately 25 to 30 percent of the Negro voters of Pierce County were challenged while no challenges to any of the white voters were made. Thereafter most of the challenged voters names were stricken from the list so that they cannot now vote, although properly qualified The full facts of this complaint have not yet been ascertained.

These developments should demonstrate to everyone who believes in the basic principles of the United States Constitution that it is indeed regretable that the legislative proposals of the Attorney General seeking civil remedies to protect the constitutional right to vote should have been bottled up in the Senate Judiciary Committee after having passed the House. The failure of the Congress to act in this particular has left the Department of Justice and the courts without the remedies and means necessary to secure the honesty and integrity of elections for Federal officers.

Under these circumstances, I respectfully suggest that a special responsibility rests upon the Senate Subcommittee on Privileges and Elections This Subcommittee is that agency of the Congress most directly concerned with elections. It is now engaged in the study of political practices during the presently pending elections If this subcommittee would hold public hearings concerning this unconstitutional disfranchisement of citizens of the United States, it would indeed be too quote the chairman's letter of invitation, "in the interest of public enlightment." It would also be of aid in the consideration of legislation in the next session of Congress If such hearings were held in one or more of the places from which these complaints emanate, these abuses might well be stopped. I venture to predict that public hearings in these places prior to election would result in the names of hundreds of qualified voters being immediately restored to the registration rolls Such a decision on the part of the subcommittee would be most helpful in contributing to a free and fair election

Mr. MITCHELL. Thank you.

In answer to Mr. Keating's question about whether this is a general condition, the Assistant Attorney General had this to say:

The disfranchisement of American citizens is by no means confined to Ouachita Parish or to the State of Louisiana. The Department is in receipt of a complaint under date of September 21, 1956, that a similar scheme using the same technique, is in operation in Rapides Parish, La., under the guidance of white citizens council. It is alleged that within a 10-day period the council had wrongfully caused the elimination from the rolls of over 200 properly qualified and registered Negro voters.

On September 22, 1956, a similar complaint was received from Pierce County, Ga., it being alleged that in August qualifications of approximately 25 to 30 percent of the Negro voters of Pierce County were challenged while no challenges to any of the white voters were made. Thereafter, most of the challenged voters' names were stricken from the list so that they cannot now vote, although properly qualified.

In other words Mr. Chairman, the Attorney General for Louisiana must be indeed insulated against events in his State if he is unaware of the widespread nature of this conspiracy to deprive colored people of the right to vote. I would suggest that if he wants to get some firsthand information on it, he has only to go to the Louisiana State Legislature and talk to Senator Rainach of that State, who is a very prominent leader of this campaign to take Negroes off the books.

I would like also to offer for the record, Mr. Chairman, if I may, a press release from our organization which points out the efforts of the State of Louisiana to prevent us as an organization from operating in that State.

We have sought to comply with the laws of Louisiana. We have had a long history of seeking civil rights. Almost every advance that the Louisiana attorney general could boast about here before this committee was due to efforts by citizens who came to us for legal assistance.

For example, he mentioned that the institutions of higher learning in Louisiana are integrated to some extent. Those instances are based on actions growing out of court decisions which our organization obtained as far back as 1935 in the Gaines case. The Negroes in limited numbers are going to those institutions of higher learning. But, day after day, month after month, and year after year, the State has had a consistent campaign to try to keep the colored people out, to turn the clock back, so that as of now, we are still in court trying to stem the tide of adverse actions on the part of the State which the Louisiana attorney general, as I said, is up here bragging about what they have done in the way of promoting civil rights.

The CHAIRMAN. How many States are you prohibited from operating in now?

Mr. MITCHELL. We are prohibited from operating in the State of Texas, the State of Alabama, and the issue is very cloudy in the State of Louisiana. I offer a press release of our organization that explains our present status.

This document that I have asked to have inserted in the record, indicates that even in the Louisiana appellate court we were able to win. The lower court issued an injunction preventing us from operating. The Louisiana appellate court set that injunction aside. It was one of those fantastic illustrations of people being denied due process. We were in one of the State courts. We sought relief in a Federal court. Before the Federal court could act, the State court in Louisiana moved to put us out of business and totally ignored the action which was before the Federal court. We appealed and the appellate court in Louisiana upheld our appeal so that they gave us the right to operate again.

But there is a question of how long we can continue because undoubtedly they will try to find some new approach for the purpose of depriving us of the right to operate.

The CHAIRMAN. In how many cases are you now engaged, particularly with reference to integration in the schools?

Mr. MITCHELL. We are representing persons who are seeking relief in approximately six States at this time.

The CHAIRMAN. Six States?

Mr. MITCHELL. That is correct.

The CHAIRMAN. How many cases in all?

Mr. MITCHELL. I would be unable to say how many individual cases that represents, Mr. Chairman, but I would be glad to submit that for the record.

The CHAIRMAN. I would be interested to have that.

(The information follows:)

[News from NAACP, New York, N. Y., November 30, 1956]

LOUISIANA COURT HOLDS NAACP BAN NULL AND VOID

NEW ORLEANS, LA., November 30.—The Louisiana Court of Appeals ruled this week that a lower court injunction banning NAACP activities in the State was null and void and should never have been issued.

The ruling was on the technical point that since NAACP attorneys had filed a motion in the Federal court last March prior to action by the State court, the latter bench had no right to hear the case and issue an injunction until the Federal court had decided what it would do with the NAACP motion.

The State court ignored the fact that the NAACP had filed in the Federal court and proceeded with a hearing, after which it issued the injunction. NAACP attorneys appealed to the State court of appeals.

The effect of the ruling this week is to place the matter where it was before the State court acted, namely, the NAACP is free to continue its activities in the State until the courts act on its petition. Attorneys for the State may or may not appeal this week's ruling to the State supreme court. They have 10 days in which to act.

At the moment the State must now file an answer to the petition filed by the NAACP in the Federal court last March 28. The Federal court will then decide whether it has jurisdiction and whether it will hear the case. It may require both sides to file briefs on the question of jurisdiction and hold a hearing before rendering a decision. Or it may take jurisdiction and require the filing of briefs on the issue and then hold a hearing.

If the Federal court for any reason should not hear the case, the matter will doubtless be brought promptly again in the State lower court by the State attorneys and the State court could be expected to grant the injunction all over again

This week's ruling means that for about a month the NAACP branches in Louisiana will be free to resume their activities while the lawyers and courts wrestle with the legal maneuvers.

Mr. MITCHELL. Thank you.

I also would like to bring to the attention of the subcommittee a document which we have prepared in which we reproduced some editorials from the newspapers in the State of Georgia. It bears on the testimony which was presented by Mr. Cook, the attorney general from the State of Georgia. Mr. Cook appeared before this subcommittee and had a number of things to say about integration and the views of his State.

A very scurrilous document got wide circulation throughout the South. It was a document purporting to give the text of a speech by a NAACP official in which he was said to have made a number of inflammatory remarks. That document was given official circulation by the attorney general of the State of Georgia, Mr. Cook.

When an investigation was made and an effort was made to determine whether it was authentic, the people who originated that document, and they are identified in this little publication, said, "We didn't claim it was authentic." Mr. Cook then said he didn't realize that

his office had been circulating it, that it was the fault of some minor official in his office. In other words, Mr. Cook gave us the smear treatment all over the country and then when the source indicated as was the fact that it was a spurious document, the people who circulated it, said that they did not realize what was happening.

I would like to offer for the record this little publication, which is called We Never Claimed It To Be Authentic, in which is reproduced an Atlanta Constitution editorial condemning this action by the attorney general of Georgia and in which we also reproduce an article from the Columbus Ledger-Enquirer of Columbus, Ga., setting forth the details of how the Cook document was circulated in such a shameful way.

The CHAIRMAN. It may be inserted.

(The information is as follows:)

"WE NEVER CLAIMED IT TO BE AUTHENTIC"

This was the casual remark of the executive secretary of the Mississippi White Citizens Councils to Attorney General Eugene Cook of Georgia, whose office had distributed an inflammatory racial intermarriage leaflet (text supplied by the Mississippi WCC) in the official envelopes of the Georgia State Law Department.

The White Citizens Councils flooded the South with tape recordings and mimeographed texts of an alleged speech made by a nonexistent "Prof. Roosevelt Williams" at an NAACP meeting which was never held. In this imaginary speech the phantom professor tells his listeners that the ultimate aim of the NAACP is intermarriage.

NAACP Secretary Roy Wilkins last winter denounced this alleged speech as "an obvious fake," pointing out that the NAACP has not and never has had any person on its staff by that name.

The fraud was exposed Sunday, September 2, 1956, by the Columbus, Ga., Ledger-Enquirer, which editorially denounced its circulation by attorney general Cook as a "terrible public disservice." Cook was also lambasted September 6 in an editorial in the Atlanta Constitution.

Faced with this expose, attorney general Cook now says that Robert P. Patterson, executive secretary of the Mississippi White Citizens Council, told him: "We never claimed it (the speech) to be authentic."

But read the story as set forth in three of Georgia's leading daily newspapers:

[Reprint in Atlanta Constitution, September 9, 1956; appeared in Columbus Ledger-Enquirer, September 2, 1956]

"TERRIBLE PUBLIC DISSERVICE ATTRIBUTED TO EUGENE COOK"

For some months, there has been distributed an alleged text of a "recorded" speech purportedly made by a "Prof. Roosevelt Williams of Howard University" before a meeting at a National Association for the Advancement of Colored People chapter.

Distributed by the White Citizens Council in Mississippi, the mimeographed "text" is highly inflammatory. It is claimed by the council to be an authentic version of what "Prof. Roosevelt Williams of Howard" told his listeners about intimate interracial relations.

As an attorney, surely Mr. Cook is familiar with the legalistic axiom that "if you find that a witness has testified falsely about any material fact concerning which he could not have reasonably been mistaken then you have a right to disregard all or any part of that witness' testimony as being unworthy of belief except so far as that testimony shall have been rehabilitated by other credible evidence."

That is what lawyers tell juries.

If it is a falsehood that there is a "Prof. Roosevelt Williams" now at Howard University, and if it is true that there never has been one there of that name, doesn't it follow that all of the rest of the trashy, inflammatory "text" being put out by the White Citizens Council is false?

As an attorney, and especially as the attorney general of Georgia, one is not expecting too much of Mr. Cook to investigate the authenticity of the propa-

ganda—more especially because it does tend to inflame and could result in violence—before implicitly endorsing it by distributing the material. What kind of an attorney general is this?

The public is forewarned not to accept such propaganda on its face; unquestioning acceptance of such hate-arousing offerings could lead to terrible episodes. Mr. Cook should be ashamed for distributing the stuff and if this inconsiderate action adds one bit to racial hatred or contributes to one incident of violence, his will be a heavy burden of guilt.

This kind of thing is dangerous, because some white people might believe it to be authentic and thus become inflamed against Negroes.

We have asked a contact in Washington, D. C., to investigate at Howard University to try to establish first if there is such a person as a "Prof. Roosevelt Williams." This response has been received:

"Pursuant to your request, I contacted the president's home, the office of the secretary, and the department of sociology at Howard University and ascertained that there is not now, nor has there ever been a Prof Roosevelt Williams at Howard."

Evidently, the alleged text is spurious

Copies of these mimeographed untruths have been distributed in Georgia by the attorney general, Eugene Cook. What a terrible disservice to the public.

[Reprinted from Atlanta Constitution, September 6, 1956 (Editorial)]

ALL ARABY'S PERFUMES NEEDED BY EUGENE COOK

Attorney General Eugene Cook has washed his hands of an inflammatory document mailed by his office as an enclosure in envelopes containing the official compilation of segregation statutes

Allegedly the document is a speech made by a staff member of Howard University in Washington concerning interracial relations in the physical sense.

It is as undocumented as the Protocols of the Elders of Zion, the exposés of delinquency behind convent walls, and other hate publications which the moronic fringe of society relishes and is anxious to believe.

Mr. Cook explained an assistant was responsible and the whole thing was an accident

"The staff member responsible for the few copies that were distributed explained he thought it was authentic since it was published in one of the large newspapers in Mississippi," wrote Mr Cook to the editor of the Columbus Ledger-Enquirer, which paper roundly criticized him for this action.

This is a refreshing statement from Mr Cook, one of the loudest of the pack which uses "them lyin' newspapers" as its favorite smoke screen.

Granted an honest mistake, damage still has been done by circulating this vicious paper in the official envelopes of the State law department, not only to the cause of friendly relations between the races but to the prestige and respect in which the department ought to be held

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[Reprinted from Atlanta (Ga.) Journal, September 5, 1956]

COOK DISCLAIMS PART IN RELEASE OF COUNCIL TEXT

Attorney General Eugene Cook has disclaimed responsibility for distribution by his office of a White Citizens Council report purporting to be the text of a talk on interracial relations made by a Negro professor to an NAACP chapter.

In reply to a Sunday editorial in the Columbus Ledger-Enquirer charging that the report was "spurious" and "trashy, inflammatory" propaganda, Cook said in a letter to the editor of the paper:

"We received copies of this purported speech from a pro-segregation group in Mississippi. When I read the alleged text I personally doubted its authenticity and filed it away in this office

"Without my knowledge one of my staff members assumed it was authentic and proceeded to distribute some of the copies along with a compilation of our State segregation laws."

The mimeographed sheet mailed by the law department was headed: "The ultimate aim of the NAACP—Below is an excerpt from a taped speech by Roosevelt Williams, a professor at Howard University (for Negroes) in Washington, D. C., delivered at a meeting of the NAACP in Jackson, Miss."

The purported extract dealt with personal relations between white persons and Negroes. The Ledger-Enquirer said it had made inquiries at Howard University and found that there is not now nor has there ever been a "Prof. Roosevelt Williams" there.

Cook said he had stopped distribution "as soon as I discovered it was being sent out."

He said he teelphoned Robert P. Patterson, executive director of the Mississippi Citizens' Council at Greedwood, Miss., and quoted Patterson as saying "we never claimed it (the speech) to be authentic" and that he got a tape recording of it "third or fourth" hand.

Everyone is deploring violence and extremism in the school desegregation campaign. A favorite theme of many people and publications is that Negro citizens and their organizations are "stirring up trouble between the races" and "creating racial tensions and ill-feeling."

The Roosevelt Williams lie, the spreading of it in an organized, deliberate fashion by the White Citizens Councils, and the connivance in this vicious, inflammatory fake by the office of Attorney General Eugene Cook of Georgia is but one example of the way in which certain white persons and organizations are "stirring up trouble between the races."

Negro citizens and their organizations have simply asked, in a quiet, orderly and dignified manner, that the United States Supreme Court ruling against segregated school systems be observed. For asking this, they have been slandered, threatened, and their small children menaced by mobs.

Which side is "stirring up trouble?"

Which is "extreme?"

National Association for the Advancement of Colored People, 20 West 40th Street, New York 18, N. Y.

Mr. MITCHELL. In Mississippi, Mr. Chairman, there was a contention, of course by the Governor that the colored people do not pay their poll taxes, that is the explanation of why the Negro vote has been reduced. I submit to you, Mr. Chairman and members of the committee, that the following is a more authentic explanation of why the Negro vote is reduced.

This article appeared in the Jackson (Miss.) State Times in March 1955.

It says:

An offshoot of a meeting of Mississippi circuit court clerks Tuesday was a suggestion that the clerks seek information of citizen's councils in their counties to halt an overload of Negro voting.

Earl W. Crenshaw, circuit court clerk of Montgomery County, said the councils "are very effective." He spelled out their method of operations as follows:

The council obtains names of Negroes registered from the circuit court clerk. If those who are working for someone sympathetic to the council's views are found objectionable, their employer tells them to "take a vacation." Then, if the names are purged from the registration books they are told that the "vacation is over" and they can return to work.

Crenshaw also gave this example:

Suppose a Negro files a form for registration and a white man files one right after him. The registration forms are "back to back" in the files. Suppose the Negro's application shows more qualifications for voting than the white man's but the Negro's application is rejected and the white man is accepted.

Then, Crenshaw said, the question "Why?" could be raised.

"There are some things," he said, "that we don't want on the record."

Others attending the session said that people voted for a constitutional amendment on voting in the belief that it would eliminate the problem of Negro voting. But they said that the new system of registration would open the way for the ones it was designed to keep out.

They said that with proper coaching many Negroes could pass the examination and that many white persons would not be able to cast ballots.

In other words, Mr. Chairman, this is a frank admission that the laws have been set up in a way to trip the Negroes, but the practical

operation may be if they are fairly administered that a lot of white people might also be tripped up. I submit, Mr. Chairman, that your subcommittee in providing a remedy in this, is not only helping the Negroes, but it is helping a great many white people who otherwise would be the victims of this kind of system.

The CHAIRMAN. Do you want to submit that for the record?

Mr. MITCHELL. Yes, sir.

The CHAIRMAN. It may be inserted.

Mr. MITCHELL. I have here this affidavit from the Reverend M. L. Gray, R. F. D. No. 3, Box 143, Mount Olive, Miss. It is:

To whom it may concern——

The CHAIRMAN. Mr. Mitchell, you do not have to read all of those. I presume they are more or less the same tenor.

Mr. MITCHELL. That is right. Mr. Gray's statement is accompanied by the names of those denied the right to vote on November 6, 1956.

The CHAIRMAN. Examples of persecution, boycott, and discrimination. Why don't you place them all in the record?

Mr. MITCHELL. That is correct. I will be happy to do that, Mr. Chairman. I wish also to offer other specific examples of persons denied the right to vote in Mississippi.

(The information follows:)

To Whom It May Concern:

This is to certify that I, Rev. M L. Gray, have been a registered voter in Jefferson Davis County, Miss., for the past 59 years. During this time I have exercised my voting privileges during all of these years. My voting precinct is Mount Carmel, Jefferson Davis County, Miss Other Negro citizens in this precinct have also exercised their voting privileges in this precinct for many years past However, on November 6, 1956, I was appointed manager of the Mount Carmel precinct ballot box for the general election to be held on that date. This appointment was made by the official election authorities

On November 6, 1956, while performing my duties as manager of the Mount Carmel precinct balloting, I received only seven ballots from the circuit clerk of Jefferson Davis County, the official registrar for said county, said ballots to be used in the Mount Carmel precinct As a result, I was compelled to refuse more than 85 applicants for ballots on November 6 because their names did not appear on the official register of qualified voters and also, there were no ballots given me for them All of these people denied the privilege to vote had voted in previous years without any complaint whatsoever.

Witness my signature this ——— day of November 1956.

/S/ M. L. GRAY,
Rev. M. L. Gray,
Mount Olive, Miss.

[Article from State Times, Jackson, Miss., March 1955]

"WHITE COUNCILS URGED TO PREVENT NEGROES' VOTING

An offshoot of a meeting of Mississippi circuit court clerks Tuesday was a suggestion that the clerks seek information of citizen's councils in their counties to halt an overload of Negro voting.

Earl W Crenshaw, circuit court clerk of Montgomery County, said the councils "are very effective" He spelled out their method of operations as follows:

The council obtains names of Negroes registered from the circuit court clerk. If those who are working for someone sympathetic to the council's views are found objectionable, their employer tells them to "take a vacation." Then, if the names are purged from the registration books they are told that the "vacation is over" and they can return to work.

Crenshaw also gave this example

Suppose a Negro files a form for registration and a white man files one right after him. The registration forms are "back to back" in the files. Suppose the Negro's application shows more qualifications for voting than the white man's, but the Negro's application is rejected and the white man is accepted.

Then, Crenshaw said, the question "Why?" could be raised.

"There are some things," he said, "that we don't want on the record."

Others attending the session said that people voted for a constitutional amendment on voting in the belief that it would eliminate the problem of Negro voting. But they said that the new system of registration would open the way for the ones it was designed to keep out.

They said that with proper coaching many Negroes could pass the examination and that many white persons would not be able to cast ballots.

HATTIESBURG, MISS., *February 10, 1957.*

Senator THOMAS C. HENNINGS,
Chairman, Subcommittee on Constitutional Rights,
Senate Office Building, Washington, D. C.

DEAR SENATOR: I am a Negro minister of the gospel of Hattiesburg and Forrest County, Miss.; a 4-year college graduate who has resided in Forrest County for 35 years or more; and who has tried continuously to exercise my constitutional rights in registering and voting, but have been continuously denied, along with many other Negro citizens of Forrest County.

Your Honor, I would appreciate an invitation to appear before your committee to testify about the discriminatory practices used to keep Negroes from registering and voting in my county. There are more than 12,000 Negroes in the county and less than 25 are registered voters, including teachers, ministers, doctors, and laymen.

I sincerely await an early reply.

Respectfully yours,

/s/ Rev. W. D. RIDGEWAY.

cc: Mr. Clarence Mitchell,
Director, Washington Bureau, NAACP.

STATE OF MISSISSIPPI,
County of Claiborne:

This statement sworn by the following persons, William Owens, Alexander Collins, and Jesse Johnson, that they made an attempt to get registered, was registered on the old registration books, but they have a new registration book and you have to answer a volume of questions before you can register to their satisfaction.

Therefore, we were not registered.

Sign and sworn:

/s/ WILLIAM OWENS,
Pattison, Miss.
/s/ JESSE JOHNSON,
McCoffee Street, Port Gibson, Miss.
/s/ JESSE JOHNSON,
Route 1, Box 105, Port Gibson, Miss.

(No notary available.)

PATTISON, MISS., *December 1, 1956.*

I, D. A. Newman, hereby affirm that in 1956 did go to the circuit clerk's office of Claiborne County, Port Gibson, Miss., for the express purpose of registering to vote, and in the presence of three persons was denied the right to register because I did not interpret the Constitution to the satisfaction of the circuit clerk and a lawyer who happened in the office while I was there.

/s/ D. A. NEWMAN.
/s/ JESSE JOHNSON.

PRENTISS, MISS.

This is to certify that I, Gaston Holloway, went to the circuit clerk's office of Jefferson Davis County, Prentiss, Miss., on July 5, 1956, to register.

The clerk gave me a new ruling on registration. I was given a questionnaire blank consisting of 21 questions; also section 22 of the constitution of Mississippi to interpret. After I had finished without any information from the clerk, I presented the written test to the clerk. He said, "I can't accept your statement."

I had been a qualified voter for 30 consecutive years in Jefferson Davis County.

/s/ GASTON HOLLOWAY
(Farmer).

This is to certify that I, John T. Barnes, went to the Circuit Clerk James Daniil's office at Jefferson Davis County courthouse on April 30, 1956, to register. The supervisor had closed the books and ordered a new registration of all people. The clerk presented me a blank of 20 questions to answer. I had to stand at a tall desk and take a written test. I had to copy section 108 of the constitution of Mississippi, then write the meaning of it, then I had to write a statement of the duties and obligations of citizenship under a constitutional form of government.

So when I had finished, the clerk said I had failed to pass, so that disqualified me of my right to vote, and it deprived me of my civil rights.

I have been a taxpayer and a qualified voter for 50 years.

I certify that this is a true and correct statement of my own.

/s/ JOHN T BARNES
(Farmer).

PRENTISS, MISS.

This is to certify that I, Genora M. Holloway, went to the circuit clerk's office of Jefferson Davis County, Prentiss, Miss., on July 5, 1956, to register.

The clerk gave me a new ruling on registration. I was given a questionnaire blank consisting of 21 questions, also section 23 of the constitution of Mississippi. When I had finished the written test, I presented it to the clerk. He said, "this isn't quite right."

I have been a qualified voter for 13 years.

/s/ GENORA M HOLLOWAY
(Farmer Holloway's wife).

PRENTISS, MISS.

This is to certify that I went to the circuit clerk's office of Jefferson Davis County July 5, 1956. I told him that I wanted to register. He gave me a questionnaire consisting of four sheets attached together. Later he brought me section 146 of the Constitution to read and answer a question pertaining to it.

When I had completed the questionnaire, he took it and looked it over. I asked him, "Did I pass?" He said, "Your answer concerning that section of the Constitution is not satisfactory, otherwise you have a very good paper."

I have been a qualified elector for 30-odd years.

/s/ OLIVIA G. JONES
(Retired schoolteacher).

To Whom It May Concern.

I, Rev. H. D. Darby of Post Office Box 116, Prentiss, Miss., did on the 29th day of June 1956, go to the Jefferson Davis County courthouse and the office of the circuit clerk for the purpose of restoring my name to the roll of registered voters. After having filled out the required form for registering, I presented it to the circuit clerk who looked at the form and promptly said, "I have to turn you down."

I had been given the 123 section of the Mississippi constitution to interpret to the satisfaction of the circuit clerk.

I had been a qualified elector for 4 years before the county supervisors called for a reregistration under the State's new constitutional amendment.

I hereby affirm that the above statement is true.

Rev. H. D. DARBY.

[SEAL] MARGARET A. LEWIS, *Notary.*

My commission expires April 10, 1958.

PRENTISS, MISS., *February 5, 1957.*

Senator THOMAS C. HENNINGS,
Chairman, Subcommittee on Constitutional Rights,
Senate Office Building, Washington, D. C.

DEAR SENATOR HENNINGS: I am a schoolteacher in Jefferson Davis County, Miss., and have served this county for 30 years as a teacher in its public schools; and for 31 years a registered voter; for 20 years I was assistant manager to the Mount Carmel voting precinct in Jefferson Davis County where there were some 175 or more registered voters, but as a consequence of a call for reregistration of voters in said county, I was denied the right to reregister in 1956 and was

therefore turned down at the last general election and not permitted to vote along with some 85 others—all Negroes.

Senator, I would be much pleased to receive an invitation from your committee inviting me to testify before same.

I urgently await your reply.

Respectfully yours,

/s/ (Prof.) G. D. BARNES.

CC: Mr. Clarence Mitchell, Director, Washington Bureau, NAACP, Washington, D. C.

NO. 2—MOUNT CARMEL VOTING PRECINCT

NOVEMBER 6, 1956

John F. Barnes (voting 50 years)	Rev. R. B. Barnes	Willie Louis Halloway
Julet Hall	Lula Barnes	Percy McNair
Prof. C. H. Hall	Samuel Buckley	Lenora McNair
Danie Griffith	Martin Sullivan	Stanley Bryant
M. L. Pace	Napoleon Hathorn	Arnie Jones
Maxie Pace	Inez Hathorn	Maud Jones
John Henry Pace	L. D. Durr	Hezekiah Buckley
Lecian Pace	Joe Buckhalter	Swrintha Buckley
Fate Buckley	Daniel Bryant	V. L. Lott
Leander White	Sedgie C. Gray	Cory Lott
Floid Hall	A. D. Gray, Sr.	Burniece Lott
Roeand Hall	A. D. Laird	Hayward Burnes
Willie White	E. L. Lockheart	Annie Lue Hartzoc
Fluker Hathorn	M. L. White	Earnestine Durr
Edward Gray	Willie White	Adam Polk
Hulon Polk	Noreada Lott	Susie A. Barnes
Eula Rogers	Y. C. White	Sylvester Barnes
Emri Rogers	Josie Mae White	Deborah G. Polk
Doretha White	Marlee White	Susie H. Polk
Abia Polk	John C. Hall	Willie Mae White
William B. Polk	Fred White	Alene White
George Magee	Thelma White	Magdelene White
Randolph Ward	Bersie B. Hall	Wesley White
Ezria Lee Ward	Lillian Griffitt	Susie Katherine White
Effie Lee Ward	Mattie R. Hall	Ambuse White
James Ward	Rosia Halloway	Olivia G. Jones[1]
Nannie Mae Hathorn	Willie Halloway	C. V. Jones

Mr. MITCHELL. If I may, I would like to identify this: Mr. Gray's statement sets forth——

The CHAIRMAN. You can identify them without oral testimony, Mr. Foley, general counsel, advises me.

Mr. MITCHELL. These are specific illustrations of Negroes who were taken off the books and have not been able to get back on. Mr. Gray's statement was to the effect that he and 83 other colored people in that Parish had been taken off the books illegally and have not been able to get on. We have others from other counties.

I would like to offer also for the record, if I may, the poll-tax receipt of Mr. Richard West of Greenwood, Miss., who has had to flee from that State and is now living in California because he has been the victim of persecution simply because he was interested in his civil rights and maintaining the right to vote.

I would also like to offer, Mr. Chairman, some illustrations from the press on what happens to colored people who have the courage to go down and ask for an opportunity to permit their children to go to

[1] Statement enclosed.

schools on an integrated basis. The names are published and thereafter they are subjected to intense economic persecution to the point that they are forced to withdraw their names.

I have also here a clipping from the New York Times with reference to the complete failure of the State of Mississippi to punish those guilty of cold-blooded murder against colored people.

I would like to offer too, Mr. Chairman, the affidavit of Mrs. Beatrice Young, as well as the doctor's statement, statement of Dr. W. E. Miller. This is an incredible demonstration of police brutality in which this expectant mother, who has four other children, asked a deputy sheriff who came to her home whether he had a warrant. He broke the door down, beat her severely, took her to jail. He beat her again and so did the jailer. When she said there was an injury to her head which she feared blows would make worse, they asked her to point out the spot and then hit her with great force right in that spot. She was so brutally beaten that she lost her child as the doctor's statement will show.

The other day we submitted to the committee the sample ballot of the State of Alabama, and I noticed that it had slipped out of the record. I would like to return it to the committee.

We have here a statement of registration of Negro voters in the State of Alabama. It runs some three pages, describing the conditions they are confronted with.

With your permission I would like to insert that.

A question came up from the attorney general of the State of Alabama as to whether our organization was willing to operate in a legal manner in his State. I would like to set forth a statement, Mr. Chairman, which indicates how we attempted to comply with the laws of the State of Alabama, and by court action we were prevented from complying with the laws of the State of Alabama.

I have also a newspaper clipping from the Afro-American newspaper of June 26, 1956, setting forth the kinds of questions and subterfuges used to prevent Negroes from voting down in Halifax County in North Carolina.

There is also a document dealing with laws of the State of Virginia which are designed to prevent our organization and anybody else from taking action to implement the Supreme Court decision in the school-segregation cases.

Finally, Mr. Chairman, I would like to submit for the record a document which appeared in the Jackson Daily News of May 15, 1956, under a bold headline saying the "State To Hire Secret Racial Investigators" for the purpose of finding out by gestapo methods what colored people are planning to do to implement their civil rights and how to prevent them from making those plans successful.

Mr. ROGERS. Jackson, Miss.?

Mr. MITCHELL. Yes, Mr. Rogers; Jackson Daily News, Jackson, Miss., May 15, 1956.

Finally, I am qualified, Mr. Chairman, to present to you as a witness the information that I, too, know what it is like to be deprived of your civil rights as an individual.

In February of last year in the city of Florence, S. C., I attempted to go into a railroad station where there was no sign indicating that Negroes should go to one side or white people should go to another. When I walked in there, I was arrested by a policeman, who said in

response to my statement that there was no sign, "When I am here, I am the sign." When my case came before the court, the city attorney said that he could not institute any prosecution because the witnesses who had seen the incident had left town. I told him that I was going back to the railroad station. He said, "You go back there because we have no law which prohibits you from going into that waiting room at the station."

In other words, they would not admit that they had wrongfully arrested me. To this day, Mr. Chairman and members of the committee, I have received no remedy from the State or the Federal Government primarily because the legal situation is such that the persons who ought to bring prosecution against the policeman who arrested me do not believe that they could get a conviction even though it is a clear violation of the law.

Thank you for hearing me.

The CHAIRMAN. Thank you very much, Mr. Mitchell.

(The statements referred to are as follows:)

REGISTRATION OF NEGRO VOTERS IN ALABAMA IN 1954

Foremost among the civil rights of citizens in a democracy is the right to participate in the government through the free exercise of the franchise. The right to vote for those who are to hold office of trust has been a marked achievement in government and cherished by those who cling to the democratic concept. The question of who should exercise this privilege has baffled many in every democratic society. Especially has this been true in the development of modern democracies. Those who exercise the right of franchise may go a long way in determining the nature of the laws governing human rights and in the enjoyment of the benefits which are to be prorated among the citizens of the State. In the attempt to achieve the goals of a real democracy, the nonprivileged many have been faced with almost unsurmountable obstacles in their effort to achieve the franchise. This most certainly has been the experience of the Negro in Alabama.

The Negro in his attempt to gain the franchise in this State has met with every conceivable obstacle devised by man. In 1940 there were approximately 2,000 qualified Negro voters in this State. In 1946 this total had risen to approximately 6,000; and by 1952 there were around 25,000 Negro registered voters. Today this number exceeds 50,000. In a period of 12 years the voting strength of the Negro has increased something like 2,500 percent. Yet, this total is less than 10 percent of the Negro population of voting age and only 6.3 percent of the total qualified voters of the State.

Alabama, like other States of the Union has attempted to set up some standards for determining the qualification of those who are to exercise the franchise. While it is admitted that some criteria should be used to determine the fitness of those who are to exercise the right of franchise, Alabama has endeavored to provide a means which would enfranchise the white and at the same time disfranchise the Negro or restrict him to an ineffective number.

The constitution and laws which set forth the qualification of an elector in Alabama are so worded as to give the board of registrars wide discretionary and arbitrary powers in determining the qualification of a voter. The Alabama laws also have been so drawn as to strike at the most vulnerable spot of the Negro. When the Negro developed to where he was able to overcome the weaknesses which would bar him, some other measures were devised. A brief statement on the qualification of a voter reveals little which one would find difficult to meet. These general requirements are age, residence and citizenship. But here the additional requirements become increasingly more difficult. Not that the Negro could not meet them, but the administration of these additional requirement leaves the board almost unlimited powers in determining the qualification of the voters. Among the provisions of the constitution and laws are the following: he must be of good character, and must embrace the duties and obligations of citizenship under the Constitution of the United States and under the constitution of Alabama. He is furthermore required to answer in

writing a questionnaire furnished him by the board of registrars without assistance. This latter requirement will test his ability to read and write.

To aid the board in determining the ability of the person to read and write, the supreme court is required to prepare this questionnaire. However, it must be observed here that this is not the sole means of determining the applicant's qualification and the board may resort to other measures in determining the fitness of the elector. The result is that many boards are "boswelling" the applicants when they appear before them. The reports have revealed in many counties that additional questions are being asked and other evidences demanded by the board to test the fitness of the applicant. In one of the black-belt counties the applicant must get a signed affidavit from 3 local merchants who have known the prospective voter for 2 years. When this is done each member will inspect it. If the registrars know the persons vouching for the prospective voter he will get his certificate. Those who have attempted to register under these requirements report no race discrimination but whenever a Negro signs the affidavit the applicant is denied under the simple process of the members of the board claiming they do not know the signee.

The applicants have other difficulties which bar or limit the number of registered voters. The complaints registered against the board showing evidence of discrimination are—

1. Additional burdens are required of Negroes: There must be present when a Negro is registering, an elector to sign the application of the Negro but this is not required of the whites.

2. The Negro must get white persons to sign his application: A Negro cannot do this in many counties as many whites will not sign applications of Negroes.

3. Resignation of the board: In some counties the members of the board of registrar will resign rather than register Negroes. This has been the case in Bullock and Macon Counties.

4. Processing the applications: Many who failed to receive their certificate have been told that the applications have not been processed. White applicants in most instances receive their certificate immediately upon registering.

5. Delay: Many boards discourage Negroes by pretending to be busy doing office work and fail to recognize the presence of the Negro. If the board member chooses to recognize him, he will then ask the applicant to wait. After a prolonged wait, the Negro is then informed that there is not a quorum of registrars present if the Negro applicant wants to register.

6. Inadequate accommodations: The space used by the Negro will accommodate only one person and when there is a long line only one can fill out the questionnaire at a time. The long wait discourages some, and others must go back to work.

7. Refusal: Some boards make no pretense but tell Negroes they are not registering Negroes, while others may be more considerate and pretend that there are no blanks. Still others are told to come back at some future date.

8. Hostile reception: Many times the board will show by their obvious resentment that they do not want to be bothered. If the applicant should make a mistake, he is told not to come back. If he has appeared before the board before, he is refused another chance. Some have extended the time to 2 years, others 6 months before a second chance is granted.

[Press release of August 9, 1956, of National Association for the Advancement of Colored People, New York, N. Y.]

ALABAMA STATE SUPREME COURT ASKED TO REVERSE NAACP FINE

MONTGOMERY, ALA., August 9.—Attorneys for the National Association for the Advancement of Colored People will present argument before the Alabama State supreme court here on August 13 in support of a brief filed with the court seeking a review of Circuit Court Judge Walter B. Jones' injunction and $100,000 contempt-of-court charge levied against the association.

The hearing is to determine whether or not the State's highest court will grant the NAACP petition for a writ of certiorari, or review of the case, on the ground that "there is no statutory authority in Alabama to oust" an out-of-State corporation.

The 31-page brief, filed here on August 7, raises 5 points of law and cites 10 errors in Judge Jones' conduct of the case in the lower court. These errors, the brief asserts, violate the rights of the NAACP and its members "to due process of

the law and equal protection of the laws secured under the 14th amendment to the Constitution of the United States" and also violates the association's rights under the Constitution's commerce clause.

The fine was levied against the NAACP by Judge Jones on July 30 because the association declined to turn over to the Alabama attorney general its membership list in that State as ordered by the court. The demand for the list of members was made during trial of the suit to determine if the association was "illegally doing business in Alabama." Although the NAACP had offered to register with the department of revenue and the secretary of state, it was refused an opportunity to do so by the circuit court.

NAACP WITHHOLDS NAMES

In an affidavit filed with the circuit court on July 30, Roy Wilkins, NAACP executive secretary, cited economic pressures, threats and intimidation of NAACP members and others who support desegregation and civil rights as reasons why the association could not turn over the names and addresses of its members in Alabama. "The atmosphere in Alabama and the incidents that have taken place there," he declared, "have been such that we feel morally compelled to protect our members at whatever cost."

In addition to contending that Alabama "has no absolute power to exclude" an out-of-State corporation, the NAACP brief raises four other points of law. The brief holds that the amount of the fine exceeds the court's power and is so "excessive and arbitrary as to violate [the NAACP's] constitutional and statutory rights."

Further, the brief asserts, the court's injunction "seeks to deny and punish the petitioner and its members for exercising rights of free speech, freedom of association and the right to petition for redress of grievances, all in violation of the due process and equal protection clause of the 14th amendment." Also, the brief points out, the court's order to produce the membership list "was arbitrary and in derogation of petitioner's right to refuse to give evidence which might tend to incriminate it or its members."

COURT PERMITS "FISHING EXPEDITION"

In granting the attorney general's demand for the membership list, which the NAACP contends is not material to the cause of action, the court "sanctioned the State to conduct a fishing expedition in violation of petitioner's right," the brief asserts.

The NAACP has expressed a willingness and desire to register and has submitted to the court all of the documents requested except those which reveal the names and addresses of association members in Alabama, the brief indicates.

Maintaining that "the contempt is criminal in nature" since it was assessed as punishment, the NAACP petition asserts that "the court could only assess as a penalty * * * a fine of $50 or at most $100." The court failed, the NAACP charges, to "consider the amount of the defendant's financial resources, the consequent seriousness of the burden to the particular defendant and whether the refusal constituted the only avenue by which a claimed constitutional right could be preserved for review by a higher court."

Conceding that State officials may object to and question the wisdom of the NAACP program and objective, the NAACP brief makes it clear that "they cannot restrict petitioner in its efforts to secure this objective by persuasion and through the courts. Members of the petitioner corporation have sought, under petitioner's aegis, to exercise these rights."

STATE MACHINERY BIASED

The brief further charges that "entire legislative and executive State machinery of Alabama is committed to a frustration of the rights of colored citizens of the State to secure through the courts and public opinion the elimination of State-imposed burdens incident to racial segregation."

And finally, the brief asserts that under the Alabama code the association and its members are "subject to criminal penalty." Accordingly, "the State's request for the names and addresses of petitioner's members * * * in the State would give evidence to carry out criminal prosecution of petitioner, its officers and its members. Under the State's theory, therefore, the petitioner's right to refuse to give such evidence is unquestioned, and the court should have overruled the State's motion for this reason."

Representing the association in the case before the Alabama State Supreme Court were Robert L. Carter of New York, the association's assistant special counsel; and NAACP Attorneys Arthur D. Shores of Birmingham and Fred D. Gray of Montgomery.

[From Jackson Daily News, Jackson, Miss., May 15, 1956]

STATE TO HIRE SECRET RACIAL INVESTIGATORS—PROBERS TO AID IN FIGHT TO PRESERVE SEGREGATION; GROUP MAY INCLUDE NEGRO

(By Phil Stroupe)

The State sovereignty commission Tuesday voted to employ secret investigators as "an official arm of State government" who would "serve as the eyes and the ears" in the State's fight against racial integration.

Gov. J. P. Coleman, chairman of the 12-member group created to assure continued racial segregation, told the commission that plans approved by it today "will bring this commission into its full effect and fruition."

To carry out its work, the commission elected a full-time executive director, a director of publicity and "such investigators as the chairman may deem necessary" to prepare the State's course of action against court suits to end segregation.

"We are not a beleaguered State with our backs to the wall," Coleman said. "I see no reason for alarm, frustration, or futility. We've got the ball and it's up to the opposition to take the initiative."

CHIEF HICKS HIRED

The commission voted to hire Chief L. C. Hicks of highway patrol to head the investigative force that will serve as the "intelligence corps" against the enemy camp.

"Chief Hicks is a former sheriff and if he doesn't know how to handle a job such as this there just isn't one in the State who does."

Governor Coleman was authorized, as chairman of the commission, "to employ such other investigators at salaries commensurate with their duties and responsibilities" to assist Chief Hicks. Hicks' salary would remain the same as it is with the highway patrol.

The commission elected Representative Ney Gore of Marks as its full-time executive director at a salary of $7,200 a year. Gore, who served as secretary of the old legal education advisory committee, would be the mainspring of the commission. "He would be the correlator of our operations," Coleman said, "with full authority to travel and represent the commission."

DECELL PUBLICITY DIRECTOR

Hal Decell, editor of the Deer Creek Pilot at Rolling Fork, and publicity director for Governor Coleman in the 1955 campaign, was elected director of publicity at a maximum salary of $6,500 a year.

In addition, the commission voted to employ Mrs. Stella Parham, former LEAC stenographer, as the chief clerical assistant for the commission at $275 a month.

Attorney Hugh Clayton, of New Albany, suggested that one of the investigators to be employed by the commission "might even be a Negro."

House Speaker Walter Sillers and W. S Henley, of Hazlehurst, constitutional law experts, suggested that the identity of the "investigators" be kept secret.

The commission authorized the fieldmen "to spend what money is necessary to acquire the information" needed to thwart efforts of integration.

The commission was given a $250,000 appropriation by the legislature to accomplish its work

Senator Earl Evans, Jr., of Canton, emphasized the "vital and important role of the investigators."

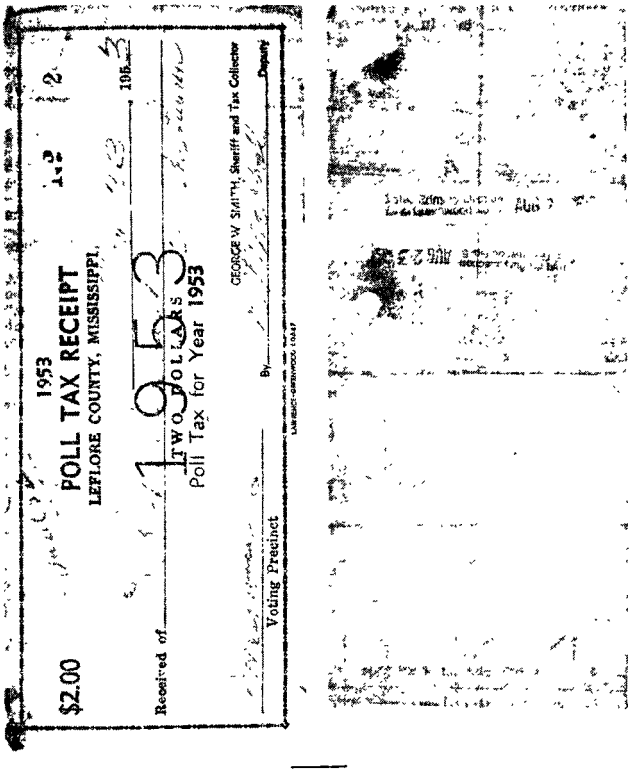
NEED FRIENDS

As the director of publicity, Henley said, "We need to win friends outside the South, and an expert will be required for that job."

The commission did not employ a legal adviser but all of its 12 members are lawyers and the need for legal advice can for the time being be found within its own ranks.

Governor Coleman named a three-member steering committee composed of Evans, Henley, and Attorney General Joe T. Patterson to make policy to submit to the full commission.

Other members present were: Lt. Gov. Carroll Gartin, Senator William Burgin of Columbus, Representatives Joe Hopkins of Clarksdale, W. H. Johnson of Decatur, George Payne Cossar of Charleston, and George Thornton of Kosciusko.



[From the Afro-American, January 31, 1956]

UNBELIEVABLE

(By Murray Kempton)

They signed a petition in an attempt to get their children into the best school in town * * * and their world came crashing down!

PART 2. THE VICTIMS

JACKSON, MISS.

William J. Simmons is a tall and troubled young man who is administrator of the Association of Citizens' Councils of Mississippi.

He is troubled most of all by any suggestion that the citizens councils would use force and violence in enforcing what he thinks of as the 2,000-year-old custom of segregating the races

"We're not that kind of folks. We're decent people; we're raised right. We'd behave like we behave whether there're laws or not. We're not raving fanatics. The fanatics don't swing much weight down here."

Suppose, a visitor asked, a colored man, hitherto totally respectable, signed a petition to put his child in a white school. Would Simmons feel that a citizens council had the right to inspire the sort of economic boycott that could drive such a mistaken, but otherwise upright man, to bankruptcy?

"You're talking," Bill Simmons answered, "about a situation that could not exist. Respectable people don't sign these petitions. A lot of the signers have prison records. The ones who were respectable took their names off the petitions here in Mississippi; they say they were tricked and misled and I believe them."

Last August 6 in Yazoo City, Miss., 53 colored people petitioned the local board of education to admit their children to the white school.

Ten days later the Yazoo Herald published a paid advertisement listing in 14-point type the names, addresses, and telephone numbers of every one of the signers.

At the bottom ran the credit line "Published as a public service by the Citizens Council of Yazoo City."

Last night, two of those signers sat in the Mississippi office of the NAACP here and told what had happened to them and the other 51 persons on the petition.

They are not cotton patch colored people. Jasper Mims, treasurer of NAACP, has been a carpenter in Yazoo City for 20 years; before his name appeared in the Herald he used to earn $150 in a good week. "I haven't had a call for work since."

Hoover Harvey was a plumber with a largely white practice. It is all gone now, and he is down to $20 a week. Both of them took their names off the petition, but it did them no good.

Their petition still lies in the board of education headquarters, only two signatures are left, and they belong to people who have left the county for good.

Arthur Berry, president of the Yazoo City NAACP, and Mims and Harvey sat last night and ran through the long, sad roster of their economic casualties.

Nathan Stewart was the most successful colored grocer in town with an income of no less than $300 a week. He signed the school petition along with two other merchants, Emily Ball and Charlie Ryan.

"When their names appeared in that paper, every wholesaler in town refused to supply them even for cash," said Arthur Berry. "Even Coca-Cola."

Coca-Cola, Nabisco, Colonial Bread, Falstaff, Schlitz, Blue Ribbon, and Pabst Beer, their Yazoo City dealers, enfranchised by these northern corporations all united to drive these poor colored people out of business.

The Delta National Bank told Stewart "to come and get his money," said Berry. All three of these grocers have closed their stores, and Stewart has left town.

Before their final disaster all three took their names off the school petitions; it did them no good.

Even if they crawled, the council got them just the same:

"John Covington took his name off the petition, and Ben Goldstein, the junk dealer, fired him anyway. Lilli Young signed the petition and the McGraw Lumber Co. fired her husband Harry.

She went in the A & P. a few days after her name was published and picked out $10 or $12 worth of groceries. The man who operates the meat market came to the front of the store and said this n——r woman is one of the signers of the petition and the clerk refused to sell to her.

"The Youngs went to Chicago in the early part of September."

Hoover Harvey was installing fixtures at the home of Joseph Hendrix, the lumber dealer, when the Yazoo City citizens council published his name.

"My partner, Jimmy Wright, and I had both signed the petition. Mrs. Hendrix came in with the paper, and told us we'd better get our names off the petition. She was telling us where to go and who to see, and she said that, if we did, she'd give us the work on her daughter's house.

Jimmy went in the next day and took his name off, but he didn't get the work or any other and now he's gone to Detroit.

Where are they now, and who can find them, these broken and dispersed colored middle class citizens of Yazoo City, Miss.? If they were not respectable, no colored person is to the citizens councils: they had painfully won a kind of comfort and they destroyed it when they signed one piece of paper.

Bill Simmons, when he talks of colored people, talks of the kindliness and courtesy of the Mississippi social system.

The citizens councils, he said, have no room for trash; they seek and get the best elements in the community, "the kind of cross-section that commands respect." They are patient under provocation; but Bill Simmons says that Northerners overlook one factor that would try anyone's patience.

"When you're selling something," he says, "you try to flatter your customers; you try to cultivate their goodwill. You don't go calling them smear names like Fascist and Nazi."

There is no record that those 53 colored people in Yazoo City ever called anybody anything. They signed a petition to get their children into the best school in town. And now, many of them have been driven away, and the rest remain clinging to a fraction of their former income.

The citizens council knows its enemy. He is the Mississippi colored person—not the northern colored person—because Mississippi cannot touch the northern colored person; it can only push and break and starve its own.

Yazoo City makes its war on women and children, and yesterday the Mississippi Economic Council held an educational meeting in the Central High School here, and an all-white choir sang a spiritual—arranged by Robert Shaw.

Dr. Albert Sidney Johnson, a minister of the Presbyterian Church, lifted his eyes to heaven and prayed to God, in the name of Jesus Christ, to preserve "the white solidarity of our country" It is God's work to destroy Jasper Mims, an old carpenter.

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[From the Yazoo City Herald, September 23, 1955]

HOW CITIZENS COUNCIL PRESSURE NEGROES

Here is an authentic list of the purported signers to a NAACP communication to our school board:

Jeff Anderson, Route 2, Box 420
Emilly Ball, 608 Calhoun Avenue
Carl Brown, Lindsey Lawn, Apartment 52
Margaret Campbell, 219½ First Street
Mrs. Addie Carter, 177 Charles Street
Phillip Coleman, Route B 217
Corrinne Collins, 705 West Second Street
Ellen Copeland, 514 West Second Street
Johnie Covington, 196 Second Street
Carter Davis, 440 West Broadway
Mrs. Emma Lee Gill, 314 West First Street
Murphy Grant, Route 2, Box 317
Lonnie Green, Jr., 519 West Second Street
Martha Guider, 512 South Monroe Street
Frankie Hamon, 807 West Madison Street
Hoover Harvey, 534 Second Street
Lloyd Jackson, Route 2, Box 395
Annie Johnson, 407 Sixth Street
Murphy Jones, 521 South Morse
Ruben Jones, 428 West Broadway Street
Mrs. Earnest Little, 213 Lamar Avenue
Caesar Lloyd, 208 Lamar Avenue
Bessie Maddox, 510 South Monroe
Willie Mae Maples, 226 West Third Street
James Martin, 11th Street, Route 4
Natalie McCoy, 220 Second Street
Emdell McGruder, 514 West Secen
Jasper Mims, 194 Charles Street
E. J. Mitchell, 702 West Madison
R. G. Plums, 418 West Broadway
Earline Redmon, 405 Champlain
C. H. Ryan, Route 2, Box 366
Gladys Smith, 808 West Madison Street
Odesser Smith, 417 South Monroe Street
Perrine A. Stephens, Route 2, Box 42
Nathan Stewart, 202 Fifth Street

Mrs Ruthie B. Taylor, 304 First Street
Lottie Mae Tubbs, 806 West Second
Ben Turner, Route 1, Box 522
Van B. Turner, Route 2, Box 58
Frankie G. Vaughan, 419 Clay Street
Mrs. Anna Mae Wallace, 202 LeVee Street
Ledora Wheeler, 815 West Second Street
Annie Bell Whistleton, Lindsey Lawn, Apartment 61
Lear White, 1003 Grand Avenue
Louella Williams, 225 Lamar Avenue
Oscar Williams, 308 Charles Street
Stella Wilson, 106 Cherry Street
Grant Winters, 511 West Madison
Rebecca Winters, 904 West Madison
J H. Wright, 402 Clay
Lillian L. Young, 513 Ridge Road Street
Whitt Young, 415 Brand Street

This list is published as a public service by the Citizens Council of Yazoo City, Miss

YAZOO, MISS —As a part of its campaign of intimidation the White Citizens Council of Yazoo City, Miss., published the above full page advertisement in a local paper to put the finger on every person who had petitioned for school desegregation Many of the signers have been penalized by loss of employment. Under this pressure the majority have removed their names from the petition J H. Wright, a plumbing contractor listed above, was taken off two construction jobs he had underway, refused plumbing supplies by a wholesale house, and notified by his grocer that a loaf of bread would cost him a dollar He is planning to move elsewhere.

[From New York Times, March 14 1956]

MISSISSIPPIAN CLEARED BY ALL-WHITE JURY IN THE SLAYING OF NEGRO AT SERVICE STATION

SUMNER, MISS., March 13 —A 12-man all-white jury found Elmore Otis Kimbell innocent today of the shotgun slaying of a 33-year-old Negro

The jury deliberated 3 hours and 20 minutes

"I don't know what to think," said the 35-year-old Glendora cotton-gin operator "I sure am happy, though."

Mr. Kimbell sat at the side of the courtroom with his wife and several friends while the jury was out A civil case occupied the courtroom while the murder trial jury was reaching its verdict.

The jury was out 45 minutes before Special Judge James McClure formally gave final instructions and presented the jurors the exhibits used in the 2-day trial

Mr Kimbell testified today that 3 shots had been fired at him, 1 wounding him in the shoulder, before he opened fire on Clinton Melton on December 3 in front of a Glendora service station following an argument

Three witnesses testified yesterday that Mr. Kimbell had threatened Mr. Melton They said he had driven away and had returned after about 15 minutes, got out of the car with his shotgun and killed the Negro. All said they heard only 3 shots, not 5 as Mr. Kimbell contended. Mr. Kimbell denied making the threat

The trial took place in the courthouse where Roy Bryant and J. W. Milam, half brothers, were found innocent 6 months ago of the murder of Emmett Till, 14-year-old Chicago Negro.

Only once has Mississippi executed a white man in the death of a Negro M J. Cheatham, of Tennessee, was hanged at Grenada, 40 miles southeast of Sumner, March 19, 1890

JACKSON, MISS., *December 10, 1956.*

MEDICAL SUMMARY OF THE CASE OF BEATRICE YOUNG

To Whom It Concerns:

The following is a brief summary of the case of Beatrice Young:

Name and address: Beatrice Young, 525 Campbell Street, Jackson, Miss.

History: On December 1, 1956, the above patient came to the office complaining of pains and soreness in the head, back, stomach, hips, left shoulder, arms, and legs. She stated that she was "beaten" by a deputy sheriff or an officer of the law on November 26, 1956, and had been treated by another physician prior to this visit. On November 23 the patient was examined by me and a diagnosis of pregnancy in second month was made.

Examination: Physical examination revealed a colored female about 30 years old, apparently in severe pain and discomfort. Temperature, 98.6°; pulse, 86; respiration, 22; blood pressure, 130/82; height, 65 inches; weight, 155 pounds. Multiple contusions and bruises are present on the left side of the scalp, left shoulder and arm, right arm, left and right hips, left and right thighs anteriorly and posteriorly. The abdomen and pelvic region are tender. Sedatives and progesterone were administered. Bed rest and inactivity were advised.

Course: The patient returned on December 3, complaining of intense recurring pelvic pains and the passing of blood from the vagina. Examination revealed that the cervix was patent and that the uterus was contracting at intervals of 20 to 30 minutes. Appropriate treatment was given and the patient was referred to the hospital if the pains continued. The patient continued to have pains and passed a foetus with placenta that night. She was hospitalized December 4 and 5, 1956, at the Jackson State College Health Center, and returned home to remain in bed, and inactive for the next week.

Prognosis: At present time no complications have occurred. The patient is under professional care and treatment.

(Signed) W. E. MILLER, M. D.

STATEMENT

DR. W. E. MILLER

1040 Dalton Street

Jackson, Miss.

DECEMBER 10, 1956.

BEATRICE YOUNG.
525 Campbell Street, Jackson, Miss.

For professional services:

December 1, 1956. Treatment	$5.00
December 3, 1956. Treatment	5.00
December 4–10, 1956. Obstetrical services and postnatal care	75.00
Total	85.00

AFFIDAVIT

Place: City of Jackson
County: Hinds.
State: Mississippi.
November 30, 1956.

To Whom It May Concern:

(Deputy Sheriff Andy Hopkins and jailor, F. L. Boteler.)

On the night of November 26, 1956, about 6 o'clock in the evening the phone rang and I answered it. The party on the line wanted to speak to me. He asked

me if Mildred McGee was hiding out in my house. I told him "No; I haven't seen her." He said he was coming by my house and search it. I told him to come on. I told him to get a search warrant and help himself because she was not there and hung up the phone. About an hour and a half later someone knocked at the door. I answered the door. He said to me, "Open this dam door or I will knock it down." I opened the door quickly and asked him if he had a search warrant. He said, "Yes," and hit me in the head with a club and said, "You black son-of-a-bitch, you are under arrest." He punched me, hit me in the mouth, almost knocked out three of my teeth, cracked one of my teeth half way. About that time my kid ran out of the kitchen and started to cry. He didn't hit me any more. He told me to come and go to jail with him. I then asked him to let me call someone to keep my baby before I go. He said, "Hell, no," so I went on out with him. They carried me on to jail. He asked me my name, then my age. I told him I was 30. He said to me, "You asked me if I had a search warrant; didn't you?" I said, "Yes, I did." He said, "Here it is and you can get it as many times as you can stand up to it," and started hitting me on my head. I asked him if he wouldn't hit me on my head. So he stopped hitting me on my head, and when he had stopped I told him I had a piece of glass removed from my skull about 5 or 6 years ago and I could not stand anything about the head, so the jailor, who was sitting at the desk, said to me, "Let me see your head," and I took my hand to part my hair to show him the operation place in my head. He said, "It is," and hit me as hard as he could with a bunch of keys he had in his hand. They stopped and started cursing me for everything—"Black smart ass bitch, I was smart," and said they were going to kill me. I asked him, "Kill me for what?" He said, "For what you said to me over the phone." I said, "I didn't say anything I thought was wrong." He said, "You said to me over the phone to get a search warrant and come on out." I said to him, "It's a crying shame, and I am 2 months pregnant and will be 3 on December 23." He said, "You stay that way you black no good bitch." He hit me in my back as hard as he could, on my hip, hand, arms, and shoulder. Then he said, "Lock that dam nigger up. I ought to kill her." When I was walking in the door to the jail cell the jailor kicked me as though he was kicking a dog who was trying to bite him.

On the morning of November 27, 1956, about 5:30 or 6 o'clock the jailor came and called me. I said, "Sir," and he said, "I guess your dam ass is sore, and if you tell it I will kill you." At 10 o'clock the jailor came and told me I was released to Lawyer Stockdale. On my way to jail he asked me who I was working for and if I had a lawyer and if I ever had been in any trouble. I said, "No, sir."

JEFFERSON COUNTY

Names of Offices to Be Voted For	DEMOCRATIC PARTY	REPUBLICAN PARTY	INDEPENDENT	
For Associate Justice of Supreme Court—Place No. 1 (Vote for One)	( ) DAVIS F. STAKELY	( )	( )	( )
For Associate Justice of Supreme Court—Place No. 5 (Vote for One)	( ) JAMES S. COLEMAN JR.	( )	( )	( )
For Judge of the Court of Appeals—Place No. 2 (Vote for One)	( ) AUBREY M. CATES, JR.	( )	( )	( )
For Presiding Alabama Public Service Commission (Vote for One)	( ) C. C. (JACK) OWEN	( )	( )	( )
For Presidential Electors (Vote for Eleven)	( ) Wesley Wiseball Ames, Jr	( ) WILLIAM H. ALLBRITTON	( ) THOMAS BELLINGER, JR.	( )
	( ) J. E. BAGGLEY	( ) R. B. CARTLEDGE	( ) RUSSELL CARTER	( )
	( ) JESSE ANDREW	( ) Charles H. Chrisman, Jr	( ) John Frederick Dudley III	( )
	( ) WILMA R. BUTTS	( ) HERMAN R. DEAR, JR.	( ) LLEWELLYN DUGGAR	( )
	( ) H. TOM LOCKWAY	( ) ROBERT W. GUTHRIE	( ) JOHN C. KAGELTON III	( )
	( ) WILLIAM M. NELLY, JR.	( ) THURSTON McMAHON	( ) M. L. GRIFFIN	( )
	( ) LAWRENCE E. L. NEEL	( ) NEIL MORGAN	( ) TOM C. KING	( )
	( ) BRUCE RAY	( ) W. M. PUSSELL	( ) JOSEPH S. MEAD	( )
	( ) R. FLOYD SORRELL	( ) L. L. SMITH, JR.	( ) EDWIN T. PARKER	( )
	( ) HENRY W. SPRATT	( ) GEORGE STAPLETON VEY	( ) J. S. PAYNE	( )
	( ) W. S. TURNER	( ) GEORGE WETCHER	( ) JACK S. RILEY	( )
For United States Senator (Vote for One)	( ) LISTER HILL	( )	( )	( )
For Representative in the 85th Congress From the 9th District (Vote for One)	( ) GEORGE HUDDLESTON JR.	( ) W. L. LONGSHORE JR.	( )	( )
For Circuit Judge From the 10th Judicial Circuit—Place No. 1 (Vote for One)	( ) ROBERT C. GILES	( )	( )	( )
For Circuit Judge From the 10th Judicial Circuit—Place No. 2 (Vote for One)	( ) HAROLD W. COOK	( )	( )	( )
For Probate Judge (Vote for One)	( ) J. PAUL MEIKS	( ) SAM L. MASON	( )	( )
For County Treasurer (Vote for One)	( ) JOE L. KIRBY	( ) JOSEPH W. RAINES	( )	( )
For Members of Board of Revenue (Vote for Two)	( ) W. A. BERRY	( ) GORDON BEENE	( )	( )
	( ) O. G. GRESHAM	( ) AMZIE B. HOLMES	( )	( )
For Judge of Municipal Court of Bessemer (Vote for One)	( ) J. ELLIS BROWN	( )	( )	( )
For Constable Precinct 9 (Vote for One)	( ) FRANK L. KEDENS	( )	( )	( )
For Constable, Precinct 10 (Vote for One)	( ) W. S. JOHNSON	( )	( )	( )
For Justice of the Peace, Precinct 11 (Vote for One)	( ) MISS NATTIE ROGERS	( )	( )	( )
	( ) A. C. SPRINGFIELD	( )	( )	( )
For Constable, Precinct 11 (Vote for One)	( ) A. FRANK KIRKLAND	( )	( )	( )
For Justice of the Peace, Precinct 12 (Vote for One)	( ) BILL DORROUGH	( )	( )	( )
For Constable Precinct 12 (Vote for One)	( ) ERNEST ALLMAN	( )	( )	( )
For Justice of the Peace, Precinct 13 (Vote for One)	( ) JAMES R. TODD	( )	( )	( )
For Constable, Precinct 13 (Vote for One)	( ) A. E. QUICK	( )	( )	( )
For Justice of the Peace, Precinct 14 (Vote for One)	( ) W. H. McKENZIE, SR.	( )	( )	( )
For Constable, Precinct 14 (Vote for One)	( ) SAMUEL A. HAYES	( )	( )	( )
For Justice of the Peace, Precinct 20 (Vote for One)	( ) A. L. CLAYTON	( )	( )	( )
For Constable, Precinct 16 (Vote for One)	( ) ALBERT L. McMALLY	( )	( )	( )
For Justice of the Peace, Precinct 17 (Vote for One)	( ) CLAUDE M. MEARS	( )	( )	( )
For Constable, Precinct 17 (Vote for One)	( ) WARREN G. VANDERVER	( )	( )	( )
For Constable, Precinct 18 (Vote for One)	( ) JIM CRANE	( )	( )	( )
For Constable, Precinct 21 (Vote for One)	( ) M. H. (HAMP) McPHERSON	( )	( )	( )
For Justice of the Peace, Precinct 23 (Vote for One)	( ) IRVINE C. PORTER	( ) FRANK L. MASON	( )	( )
For Constable, Precinct 25 (Vote for One)	( ) W. O. HAYNES	( ) SIDNEY KEYWOOD	( )	( )
For Constable, Precinct 29 (Vote for One)	( ) A. C. CARTER	( )	( )	( )
For Constable, Precinct 32 (Vote for One)	( ) CHARLIE B. THAMES	( ) SAM MILLER	( )	( )
For Justice of the Peace, Precinct 35 (Vote for One)	( ) J. K. SCOTT	( )	( )	( )
For Constable, Precinct 35 (Vote for One)	( ) DAVID W. CARVER	( )	( )	( )
For Justice of the Peace, Precinct 38 (Vote for One)	( ) L. T. IRWIN SR.	( )	( )	( )
For Constable, Precinct 39 (Vote for One)	( ) HERBERT H. GRAY	( )	( )	( )
For Constable, Precinct 42 (Vote for One)	( ) JACK BIDDLE	( )	( )	( )
For Constable, Precinct 44 (Vote for One)	( ) GLENN HEWETT	( )	( )	( )
For Constable, Precinct 46 (Vote for One)	( ) DAVID H. BATES, SR.	( ) ROY L. McKENZIE	( )	( )
For Constable, Precinct 50 (Vote for One)	( ) E. B. AVERHART	( )	( )	( )
For Constable, Precinct 52 (Vote for One)	( ) W. ARCHIE PHILLIPS	( )	( )	( )
For Constable, Precinct 53 (Vote for One)	( ) GEORGE BRINER	( )	( )	( )

AFFIDAVIT FOR ABSENT VOTER

STATE OF ALABAMA
JEFFERSON COUNTY

Before me, the undersigned authority personally appeared _____ who is (made) known to me and who being first duly sworn, deposes and says: I am a bona fide resident and qualified elector of precinct _____ and district No. _____ in the County of Jefferson State of Alabama. I have not voted in the election to be held on November 5 1956 and I am entitled to vote therein. My regular business or occupation regularly requires my absence from the county of residence, and I will be absent from the county on the day of the election because of my regular business or occupation and in the performance of the duties thereof

_____
(Signature of voter)

Sworn to and subscribed before me this _____ day of October 1956 I certify that the affiant is known (or made known) to me to be the identical party he claims to be.

_____
(Signature of Judge of Probate or Notary Public or Clerk of Circuit)

FOR ABSENT VOTER WHO IS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES

I hereby certify that the person whose signature appears above is now serving in the Armed Forces of the United States.

_____
Commanding Officer of Above Named Person.

FOR ABSENT VOTER WHO IS THE WIFE OF A MEMBER OF THE ARMED FORCES

I hereby certify that the person whose signature appears above is the wife of a member of the Armed Forces and is residing with such member at #

_____
Commanding Officer of the

FOR ABSENT VOTER WHO IS A VETERAN CONFINED TO A HOSPITAL OPERATED BY THE VETERANS' ADMINISTRATION

I hereby certify that the person whose signature appears above is a Veteran now confined in a Hospital or facility operated by the Veterans

_____
Authority in Charge

[From Afro-American, June 26, 1956]

VOTER SUES REGISTRAR FOR $5,000

RALEIGH, N. C.—Charging that he was cheated of his right to vote because he failed to answer a series of questions put to him by his precinct registrar, a Halifax County citizen for 20 years has filed suit in United States district court here.

The suit for $5,000 damages was filed last week by the Reverend Ernest Ivey, 62, against T. W. Cole, registrar of the Littleton precinct in Halifax County, through Herman Taylor, Raleigh attorney.

The series of questions, as listed in the plaintiff's petition, were:

"1 What is the total membership of the House of Representatives?

"2. What is the total membership of the United States Senate?

"3. What would be the total vote of two-thirds of the House and Senate?

"4 How many of the State legislatures must ratify an amendment to make it become law?

"5 The 18th amendment prohibited the manufacture, sale, and transportation of liquors What was this act called? What year proclaimed?

"6. By what amendment was the 18th amendment rescinded?

"7. On what date each year does Congress convene?

"8 On what date every 4 years is the President of the United States inaugurated?

"A—First term?

"B—Second term?

"C—Third term?"

The petition in the suit contends that the Reverend Mr. Ivey can read and write sufficiently well to meet the voting requirements as specified in the North Carolina general statutes of the State constitution.

Mr. Ivey went three times to the registrar's office prior to the May 26 Democratic primary but was not permitted to register, according to the petition.

He went to the registrar's office, according to his complaint, on the dates of April 28, May 5, and on one other occasion between those dates.

The minister charges that he was given an academic test by the registrar on matters pertaining to the Constitution, history, and Government.

He contends that the test was not a literacy test designed to test his ability to read and write any section of the State or United States Constitution and that it was not even a token attempt at compliance with State law.

The test, he asserts in his petition, was arbitrary and intended to deprive him of rights and privileges of franchise because of his race and color.

Mr. Ivey has resided in the county for 20 years and in Littleton precinct for 10 years, according to his petition to the court.

The CHAIRMAN. We will now adjourn until tomorrow morning at 10 o'clock.

(Thereupon, at 4:20 p. m., the hearing was adjourned to reconvene at 10 a. m., Thursday, February 14, 1957.)

CIVIL RIGHTS

THURSDAY, FEBRUARY 14, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to recess, at 10 a. m., in room 346, House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler, Rodino, Rogers, Holtzman, Keating, and Miller.

Also present: William R. Foley, general counsel.

The CHAIRMAN. The committee will come to order.

Our first witness this morning is our distinguished colleague, Hon. Jamie L. Whitten, from Mississippi.

STATEMENT OF HON. JAMIE L. WHITTEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. WHITTEN. Mr. Chairman, I appreciate very much the opportunity to come before this distinguished committee and discuss what I think is rather serious, not only in my own area, but I think it is serious to the United States. I think the matters that this committee is considering could go to the very destruction of our judicial system.

First, may I say that I served in the Mississippi Legislature one session and served almost 9 years as district attorney in my section of Mississippi prior to coming to the Congress. Might I point out that the arguments advanced in favor of the legislation which you are considering are based upon an erroneous conclusion as to what the facts are. Having served as district attorney in my area for about 9 years, I believe I had the opportunity to learn something of what is done in my section of the South, and in my position as district attorney, there, I dealt with law-enforcement officers throughout the southern area. I do not think there is any question in anybody's mind but that this legislation is directed toward a condition which members of this committee or a majority of it, last year must have thought existed in that area.

I am here to tell you that the facts, or presumption, or acceptance of the facts as claimed is an erroneous action on the part of this committee.

First, I would like to point out some things that have been said here, and some impressions that have been left. In Mississippi we do not as a matter of law do anything that is based on color or on trying to disenfranchise people. I would like to read to you the law with regard to Mississippi as to who can vote. I quote:

Every inhabitant of this State except idiots, insane persons, and Indians not taxed, who is a citizen of the United States, 21 years old and upward, and who has resided in this State 2 years, and who is able to read any section of the Constitution, or if unable to read the same, who is able to understand the same when read to him, or give a reasonable interpretation thereof, and who shall have been duly registered as an elector by the officers of this State under the laws thereof, and who has never been convicted of the crime of perjury, forgery, embezzlement, or bigamy, and who has paid taxes which may have been legally required of him, and which he has had an opportunity to pay according to law for 2 preceding years, and shall produce satisfactory evidence that he has paid such taxes on or before the 1st day of February of the year in which he shall offer to vote, shall be a qualified elector in the city of his residence, and shall be entitled to vote in any election held not less than 4 months after his registration. Any minister of the gospel shall be entitled to vote after 6 months' residence in the election district, city, town, or village if otherwise qualified. No others than those above included shall be entitled or shall be allowed to vote in any election.

It has been the belief in my State back through the years that voting was a privilege. We are all familiar with the law which says that the qualification of the electors is a matter of State determination. It has been the belief in my State that if a person were not interested to the point of registering, if he were not interested to the point of paying $2 in support of schools, little was to be gained by any assistance on the part of anybody to force such a person to register or to pay this poll tax in time.

I would like to also correct an impression that has been left with you by preceding witnesses about the poll tax in Mississippi. We make exemptions on the poll tax for those over 60 years of age. We make exemptions for those who are only 21 years of age for their first vote. We make exemptions for certain persons who have disability. But all persons are required to pay the poll tax in Mississippi, irrespective of whether they vote or not. The only connection between voting and the poll tax in Mississippi is that if you care to vote you must pay before the 1st of February in the year in which you offer to vote.

The CHAIRMAN. Many of the States have repealed their poll taxes.

Mr. WHITTEN. I think that Mississippi might have repealed the poll tax many years ago except for the pressure from Washington to force them to repeal it. The poll-tax requirement is in the constitution. It would require a constitutional amendment to remove it. It is my sincere belief that except for pressure from Washington in all likelihood Mississippi would have followed other States in repealing the poll tax.

On the other hand, we do get about a million dollars from the poll tax, which is a considerable amount when it comes to trying to support schools under present conditions where we are doing our dead level best to improve school facilities. I believe if you were to check the matter, you would find a bigger percentage of improvement in the South, and particularly in Mississippi in the last 20 years, in the progress that has been made in providing ample school facilities than anywhere in the country.

The CHAIRMAN. The best public-relations job Mississippi could do is to repeal the poll tax, and it would be worth a million dollars.

Mr. WHITTEN. I can see that would be true if the answer to the present problem was merely trying to satisfy those who give us so much trouble. It is my view, Mr. Chairman, and I speak for myself only, that we could not satisfy that present public situation, because it is motivated, in my humble judgment, by an appeal to the voters in

your northern cities. It is my belief that most of the newspaper articles that I read, most of the speeches that I hear, do not come from any real interest in what happens in the South. I have been in your city Mr. Chairman. I have been in Chicago. I have been in the northern areas, and so help me, the Negro citizens in my section have more love and respect on the part of white people than you will find in any city that I have been in in the United States, including the city of Washington.

No, it goes deeper than that, and we cannot solve this matter by catering to the pressures that are right now centered on us, because the purpose of those drives is not to correct a thing that I know does not exist down there, but it is an appeal to other areas.

The CHAIRMAN. Most Southern States have repealed it.

Mr. WHITTEN. That is right. I am telling you that in my opinion Mississippi might have many years ago, except that somebody was trying to tell them they ought to or if they did not, these other things would occur.

This thing has gotten into the realm of pressure politics here in the Congress. I do not need to tell you or other members of this committee what we learned here. I have been here long enough to have friends in Congress from Chicago tell me how elections were handled on occasion in some areas there. I know, Mr. Chairman, of things that happened in your own city. I recall that former Representative Marcantonio told a group of us that so long as he jumped on John Rankin occasionally, he would stay in Congress as long as he lived. He followed it up and said if Mr. Rankin jumped him on occasion, Mr. Rankin would stay here as long as he lived. This thing as we all can see goes beyond merely a legislative situation here.

The CHAIRMAN. Mr. Rankin used to jump on me a little bit, too, you remember.

Mr. WHITTEN. Mr. Chairman, I will grant you that you have on occasion let your name be on certain instruments when it was to our advantage to make it quite clear that while we liked you, we did not agree with you in that particular instance. It has been helpful in certain areas. I presume some of your speeches might have been made for other purposes, but I could sense in some of them the feeling that you did not care to get identified with us in certain of our positions.

Getting back to the situation—and I hope you listen to me here—I realize that since a majority of this committee voted this bill out last year I am in a position somewhat like an occasion when I was practicing law. I was trying to insist on a little more time to argue a motion before the judge, and he was a little impatient and, finally, he said:

> I will give you all the time you want. I have already written my opinion, and it is against you, and it is in my desk drawer, and you can take all the time you wish.

I realize, in view of last year's occurrence, I am in somewhat that same position here. This thing is deadly serious, far beyond the immediate problem that you people apparently think you see in my area.

We have tried to have honest elections in my State, and, in spite of all our efforts, we, like your State and every other State that I know of, have a continuing problem with that fly-by-night type of citizen of which every State has a number who on the eve of the election can be bought one way or the other. I am glad that it is

a limited number in my area. I think it is a limited number in other areas. I am not going to give away the Members of Congress, but since I have been here I have been close enough to Members from all sections to where I know our problem is a general one. May I say I think it is much less than in many of these areas. Thus, it is that we require registration in advance. We require a poll tax of $2 per year, which you can see is peanuts, if I might use that term to describe how small it is. The only thing is that a man who wants to vote must pay it on or before the 1st of February in the year in which he votes, and our primaries come along in August and the elections in November.

What is the purpose of that? The purpose is to keep some candidate or some group of people backing some candidate, whatever their reason, from going out on election eve and through the use of money, promises, or some other thing, throwing an election from one side to the other. We have a Corrupt Practices Act in Mississippi which is directed toward the same thing. In none of these, or in the substantive law, will you find where there is any attention paid to color.

May I say something else. I heard our distinguished Governor make a splendid presentation to you the other day.

The CHAIRMAN. He did. We were very impressed with your Governor.

Mr. WHITTEN. Thank you. We feel he is doing a fine job ourselves. I want to point out to you that all the discussion had to do with the primary election. We have a situation down there, which may not prevail forever, but it has a long time, of having a one-party State. Contrary to the facts that were given there, which were correct, but which applied to the primary, I would like to show you the figures in the 1951 election, a general election, where for all candidates for State offices, Governor and all other candidates, the vote in the whole State of Mississippi was 42,047. Why is that? Not a single Democratic nominee had an opponent. Many of your own relatives did not vote because there was no contest. In my State the Republican Party does not even have a primary. They meet in convention and select their candidates. The same is true of the other minor parties which have appeared from time to time.

Thus it is that in our general election we do not even have any contest, and therefore nobody pays any attention to the voting. We will say last year was an exception to that, in view of President Eisenhower's national popularity—he did not carry my State—but we did have more attention to the general election since there was a contest on between the feelings of more Mississippians than heretofore existed.

We get to another thing in connection with this, which we think is sound, judged by all prior Supreme Court decisions. We in my State have felt that we wished to have justice in the courts. We wish all our citizens to have justice in the courts. In the years that I was district attorney, and as I told you I was for almost 9 years, I recall hardly any instance where a Negro or a colored person was before that court that I did not have from 1 to 10 people, if the defendant had any kind of character or standing at all, coming to ask me to let him off leniently. It is usual and it is typical.

It is hard for people in northern areas to understand why we are so excited about these things, because in the North you live segregated. I live here in Washington, but I live out in a white area. I will see

more Negroes the day I go home to my little town of about 3,500 people than I see in Washington in the course of a whole congressional session, because here they live in a certain area, and we live in another area. You know it is true. It is true in New York and Chicago.

During the Democratic convention I had the privilege of driving over South Chicago. I was driven by a citizen of Chicago. I asked him how they were meeting the integrated school problems. He said, "Really we don't have any real problem in Chicago. The minute the Negroes move into a white block or move into a white school, the first year it is mixed up a little bit, the second year the whites move out and give it to them." We do not do that in our area. We live integrated. We do not have segregated sections in our cities because, in all seriousness, we have more love and more appreciation for the good colored citizens in our area than I have found in the 15 years I have been in Congress in any other city or any other State in the Nation.

In other words, I can clearly see that the efforts of some in Congress definitely stem from back-home pressures from the northern areas. It does not come from the areas where you set out so graciously to correct what we know needs no correction.

As I started to say, in the handling of justice in our section, we have felt that a person who was interested enough in public affairs to register and pay $2 and do it by the 1st of February to retain his right to vote would make a better juror. Jurors in the State of Mississippi must be qualified electors. I think it is sound. I think it is sound for the administration of justice. I know our courts to a great extent are getting into bad standing with the American people—not just in the South, because of the segregation decision—but because as we know, in the field of jurisprudence and the field of judicial law they have gone far beyond what the court has done in many years past. There are other things that contribute greatly to this feeling in the rest of the country that you need to do something to whip the South in line because we are mistreating somebody. I say it is not so. But it is easy to see why that feeling in the public mind has been built up.

I will indicate to you why we are so helpless to correct that. Last year the Judiciary Committee of the United States Senate had its hearings. At that time one of the Senators raised the question of the Till case, which happened down in my area. It is one of those tragedies that all right-thinking people, white and colored, deplore. It is one of those cases where the sheriff of my county, a fine citizen, when he heard of it, set out and did what every officer would do, went out and made a search and found a body and brought the body in, and went through all that any officer should do.

The judge of that judicial district is a fine citizen and he gave every right not only to the State in its prosecution of the case, but every right to the defendants as the law required. Everything was done in the presentation of all the evidence that was available, and they made every effort to obtain it.

The attorney general of the State sent in an assistant there to help the very fine district attorney, who incidentally succeeded me as district attorney in that area. Everything in the world was done to present the strongest case possible to that jury. I will agree that subsequent to that trial, and in recent months, there have been magazine articles by these two defendants which would lend some weight to a belief that they might have been guilty. But I will point out to you

that in the trial of all cases, not only in my State, but elsewhere, the defendant is not required to testify against himself. It is a principle that has existed in the English law back to Magna Carta days.

You may second guess the jury which tried that case. It is an age-old pastime on the part not only of the public, but of lawyers, to second guess or find fault with a jury decision. But you did have the sheriff of that county, who had performed his duty, say to that jury that in his opinion the body which had been found, and which had to be proven beyond a reasonable doubt to be that of the claimed deceased, was older, more mature, and had been in the water much longer than could have been possible with regard to Till.

We deplore the whole thing but I could point to what I read has happened in Chicago, what I read has happened in New York every day.

Here is the thing I wish to point out. While so much is made of the Till case—and if you had been on the jury you might have decided differently, and if I had, I might have—that jury was sworn to acquit the defendant unless they believed him guilty beyond every reasonable doubt. That is the test in all the courts in all the States and in all the land. But in testimony before the Judiciary Committee, last year, I pointed out what the Mississippi people would do. I called attention to a case. I went back after that and got the file out. This case is in the adjoining county of Yalobusha, Miss. This paper is of the date January 24, 1936. "William C. Mitchell sentenced to hang Friday, March 13, for murder of Negro." On the front page of that paper there is an editorial. I won't burden the committee to read all of it, though it is worthwhile to read it—I wish you would take time to read it—that makes this statement:

> Twelve good Yalobusha County men deliberated the fate of William Clark Mitchell. After about an hour they returned with a verdict of guilty as charged. The judge immediately pronounced the sentence which was that on March 13, 1936, the defendant should be hanged.

The jury in that case was composed of 12 white citizens of that county. Not a newspaper carried any reference to my statement before the committee as to this case, because it did not serve the purpose of putting the heat on this political issue which is being blown up for the purpose of carrying votes in our northern cities.

Mr. ROGERS. Was this the case of a white man killing a Negro?

Mr. WHITTEN. That is right. I do not say that with any pride. The facts justified the verdict. I am bound to say that, because I happened to have been district attorney in the case.

That case went to the Supreme Court. The Supreme Court affirmed it. Subsequently, in the southern State—and his defense was mental lapse and mental troubles—a judge in a lower court of the State issued a writ of error coram nobis saying that the man was insane and the court was unaware of it, and if it had been aware he would not have indicted, and if they had indicted they would not have tried him, and all of that. So a stay of execution was granted and the lower court set that aside and a new date was set. It went back to the Supreme Court, and the Supreme Court affirmed it again.

Just prior to the actual execution the VFW and the American Legion got into it. This man had been in the military service. The

Governor did commute the sentence to life imprisonment, and the man is serving his life sentence 20 years later.

Now, against that story showing what the southern people do when the proof warrants it, I have a paper which I got today from Memphis, Tenn., in which it announces that Chief Justice Warren stayed the execution of a Negro citizen who was to be executed in Mississippi. I will read from that paper, which just came in. It says that counsel for Goldsby, who was born in Mississippi, and so on, who was convicted of the shooting of a white lady in 1954, appealed on grounds there were no Negroes on the grand or trial juries. Earlier Federal Judge Allen Cox of the north Mississippi district had refused a stay of execution. The United States Supreme Court had previously reviewed the Goldsby case and affirmed the Mississippi Supreme Court conviction which upheld the conviction and sentence. Mrs. Nelms was shot and killed after her husband had been wounded by Goldsby. Goldsby was accused of starting a disturbance as a car of Negroes drove into the place.

This is a tragic occurrence in which this place of business in Mississippi had this carload of Negroes drive up. They called on them for curb service which he did not render. I will not review the testimony in connection with it, but the Negro, who was the only one who had a gun, shot Mr. Nelms and shot his wife through the throat, and she died. That was in 1954.

The State courts moved in proper manner and tried the case in proper manner. It went to the Supreme Court. Here the Chief Justice has issued a reprieve or stay of execution notwithstanding that his own Court had affirmed the lower court's decision; notwithstanding that they had said that the evidence amply warranted the verdict. According to the press the reprieve was based on the fact that there was no Negro on the grand jury or the petit jury.

As I have pointed out to you, we have had a one-party State. Because certain people move from one community to another over a very short period of time, very few of them frankly do qualify. That is not an effort to keep them from qualifying as voters. But if you let a man vote who just got to town—I live close enough to Memphis, Tenn., with all due deference to the fine people there—it would be like we read in Chicago, New York—we would have people who would be moving voters in by the carloads on election day to swing an election. We are sound, in my judgment, in requiring residence, not only in the county or State, but in the precinct in which the voter votes. If you did not have that, he would vote here and go to the next precinct and vote there, and so on down the line.

I daresay that the chances of finding a Negro who had taken the trouble of registering or taken the trouble of paying his poll taxes, who had met the qualifications of an elector in the county, would be about one out of a thousand in a normal drawing of juries by chance so as not to have a fixed trial. The chances would be one to a thousand of having a Negro on there, unless you deliberately put him on there. I am saying with all the love and respect we have for people of all races when the Chief Justice of the United States Supreme Court or any other court says that you have to handpick and put on any jury a particular man or a particular colored man or a particular race of man, you can just see where it leads. That is the type of thing

which I think has got the administration of justice in terrible standing with the public generally. When we see people that are accused of violent crimes having their case dragged around for years and years before there is any conclusion, when we see a Justice of the Supreme Court, who presumably took part in a decision in affirming the lower court's decision earlier, going against his own decision a few weeks earlier, it cannot lead to but one thing, and that is less regard for the courts.

I don't know whether I made myself clear in saying these things to you. I have two Negro colleges in my district. I have many friends who are Negroes. I know that they have more respect, more support, more assistance and everything that you can mention that would be good and fine in my section than you will find in New York City, Washington, D. C., or Chicago. There are people that would like to have them vote for them on election day. There are people here who would like to use their support, and there are people who like their money, but what I observe is that they want to be left alone.

We have helped them. They have helped us. I think our record compares with any in the country.

Now, we turn to what we would do in this effort to stir up a lot of agitation and not correct anything. Let us look at this bill that you are considering, the one that you brought out last year. I am not going to burden you with reading to you what you read many times. Take subsection (b) of section 104. Powers of the Commission. It says that the Commission may accept and utilize services of voluntary and uncompensated personnel and pay any such personnel actual and necessary travel and subsistence expenses incurred while engaged in the work of the Commission, or in lieu of subsistence a per diem not in excess of $12.

Under that provision the Commission could accept the services of the entire membership of the NAACP and pay them $12 a day to win any election.

The CHAIRMAN. It does not follow that it would do that.

Mr. WHITTEN. Mr. Chairman, if you will go back in the files, or I could do it, you will find that on the eve of every national election for the last several terms, the Attorney General, whoever he was, has come out with some statement of what he is going to do in the South. The origin of the Dixiecrat Party in the South was an action by Justice Clark who was then Attorney General. We had a terrible occurrence happen in Smith County, Miss. It was on the eve of an election. Tom Clark announced to the press—it was in the press before they knew it anywhere else—what he was going to do in the way of sending Department of Justice people into Smith County, Miss. That case was properly handled, and I think you would agree it was properly handled. But our governor and the judges in the offices who were discharging their duties as good conscientious Americans were treated as though they were completely against law and order, and treated as though they were for the destruction of everybody's rights.

That resulted in the feeling on the part of our Gov. Fielding Wright that led to the States' Rights ticket in Mississippi.

The CHAIRMAN. I think it was unfortunate. It might be interesting for you to know that the Attorney General from the sovereign

State of Louisiana after a colloquy said he did not see too much objection to the provision that you read setting up the Commission.

Mr. WHITTEN. We know we southerners are prone to differ in our opinions, and sometimes some person studied it more than others. I daresay what I told you just then as to the origin of the Dixiecrat Party in the South most folks are unaware of. Governor Wright was a close friend of mine, and a very sincere and conscientious man, and I know what I am talking about as to the origin of that situation.

If this is passed, you may presume that surely a Commission would not do that. Again you are getting into a government of men rather than a government of restrictions. You have not spelled out that in the law. It would depend on who was on the Commission and how badly they wanted to win an election. I have seen some folks want to win elections very, very strongly in my years here in the Congress.

Now we turn to others.

The CHAIRMAN. I want to say that the Commission must be bipartisan, three of each party.

Mr. WHITTEN. That is right, and when you get 3 people in the Repulican Party and 3 people in the Democratic Party, and each group trying to get the Negro vote in New York and in Chicago, where does that leave the rest of us?

The CHAIRMAN. There may be something in what you say, because whenever the President appoints somebody to bipartisan boards or commissions, he does not appoint real Democrats. He appoints those who voted for him, the so-called Democrats who voted for Eisenhower. In my estimation that violates the very intention of Congress which created these commissions and these boards and these committees. In that regard there may be some cogency in your argument.

Mr. WHITTEN. I am glad to hear you make that statement.

The CHAIRMAN. I intend to have this committee look into that matter, because I think it is an absolute violation of the purposes for which we created organizations like the FCC, the ICC, and CAB. Ever since he has been President, instead of appointing a Democrat, he has appointed a Democrat whose philosophy is like his own. Congress intended to have both political philosophies so that we could have competition of ideas in those commissions. But he has destroyed all that. I think it is high time that Congress addressed itself to that proposition.

Mr. WHITTEN. Mr. Chairman, I am awfully glad to hear you say that. I could cite many illustrations, too, to prove the soundness of your statement. I think that it weakens the very framework of our Government when that occurs, and it has occurred regularly. These commissions that you have reference to have quasi-judicial authority. They are in the nature of your courts. Their findings in most instances as to the facts are conclusive. It really endangers our country. The problem you point out leads me to believe, Mr. Chairman, that this committee might well put that bill ahead of this one, because a bill to restrict that type of operations would be helpful, whereas this measure you are now considering is a step in the same direction that that course of action by the executive department has led.

Now, going to the power of subpena under this bill, which you are considering, subpenas for the attendance and testimony of witnesses and/or the production of written or other matter may be issued over

the signature of the Chairman of the Commission or such subcommittee or any person designated by such Chairman.

In one instance we may agree and in another instance we may differ. But you and I both served here when the whole public was inflamed in the one case by former Chairman Dies, for whom I have a high regard, when he was head of the Un-American Activities Committee—the situation of the chairman naming one man to serve subpenas all over the country. We had another example of that under the McCarthy situation. Even if you admire both men, and if you like both, or if you dislike them, we have had illustrations of what it means to the American people when one man can designate anybody to serve a subpena anywhere in the United States.

Under that provision the chairman could drag any citizen, north or south, all over the country. It is to be remembered that those who would appoint half of the members of this Commission are the ones who recommend this legislation.

Let us turn to one that is even worse than any of that. The provision marked as part IV or III of the bill:

> Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraph first, second, or third, the Attorney General may institute for the United States or in the name of the United States but for the benefit of the real party in interest a civil action or other proper proceeding for redress or preventive relief, including an application for permanent or temporary injunction, restraining order, or otherwise In any proceeding the United States shall be liable for cost the same as a private citizen.

Mr. Chairman, under that provision the Attorney General could move in and take punitive actions against private citizens for what he, the Attorney General, thought such citizens might have thought. The Attorney General, who recommended this legislation, could sue for a person who did not want to sue. He could complain for a private citizen who had no complaint. He could penalize other private citizens because he believed they were about to engage in an attempt. What difference between the power which would be given here to the Executive and a dictatorship?

I have sat through some of your hearings, as you recall, and I have heard questions propounded to some of the witnesses sitting where I am now. One of them was by one of my distinguished friends on your committee, which was along this line. The Supreme Court has rendered its decision in the segregation cases. In the Clinton, Tenn. case they issued an injunction restraining the folks who were before the court, and who had been made subject to the suit. Subsequently, the FBI was sent into the area and 16 persons whose names were not in the original action, who were not parties defendant, whose names had not been used in the order of the court, were jerked up and are now being held for contempt of that court. That means that the Supreme Court, as evidenced by the district court in that instance, has announced what it says the law is, and then has announced further if you do not obey the law we will throw you in jail, or at least we have the right to, and we have you before us for contempt where that can follow.

Mr. ROGERS. Without trial by jury.

Mr. WHITTEN. Which absolutely violates all the common law, all the substantive law, all the statute law in every English-speaking country that I know since the 12th century.

The question asked here: If the Court is going to do that, do you not think it would be better for us to pass legislation here saying what the penalties and so forth are?

Is there any basis for believing that if a Supreme Court will go so far as to announce the law, then carry it out by announcing that, since we announced it, everybody is bound to it, and we will throw you in jail for contempt, is there any feeling on the part of anybody that any statute we might pass might clip the Court's wings in that instance? No. What you will do in passing legislation, since they are going to destroy the right to trial by jury, is you will pass a statute saying that the legislative division of the Government has put its mark of approval on what the Court is doing, except that we will say that you should not go further than this, that, or the other.

In this bill before you, you give the Attorney General the right to injunction. The Clinton case would indicate that if you get an injunction restraining me, it would not only control me, but every Member of the Congress. Under that decision down there, if I make some comment here which is critical of that judge, there is nothing in the order, so I understand it, that would prevent me from being jerked up for my testimony here as being in contempt of that court. It just goes on and on.

The CHAIRMAN. You cannot be held accountable for anything that a Member says in Congress in any other place.

Mr. WHITTEN. Mr. Chairman, you called my hand on that, and I am just glad to say that I agree with you on that score, because in self-defense I wish to believe it. But is it not serious that you would consider legislation here where the only people that could defend themselves against it are the 435 Members of the House and 96 Senators? Every other man in the United States—and we would be subject to it if we got out of here and made it someplace else—would be subject to being grabbed up here by the Attorney General for what he thought we had thought.

It has been described to you the conditions that will exist in my part of the country. We are proud people. I know the people of your part of the country are proud people, too. But the minute the force of Federal Government goes into an area where we are living on good terms with each other, where we work together, it will make a situation 10 times worse than it has ever been, and it has always been a hundred times better than you folks in northern cities have any idea, and I mean that.

The CHAIRMAN. Let us have a Democratic Attorney General and nothing like that will happen.

Mr. WHITTEN. Mr. Chairman, I spoke for the Democratic Party throughout the country last year. I made six speeches to national groups. I spoke probably 30 times in my district, and it went overwhelmingly Democratic. But I say, if this legislation becomes law, mark my words, you are going to have a third party in the South. When you get a third party in the South, you are probably going to have a fourth party in the Midwest or Far West or maybe in Chicago or New York. Then we are going down the hill to what has occurred other places.

The CHAIRMAN. Not in New York; no, sir.

Mr. WHITTEN. Eventually, judging by France, we might have so many third parties it will leave you where you are a separate party because nobody else is with you, so it ends up about the same.

The CHAIRMAN. We have a fairly good organization in New York.

Mr. WHITTEN. I think you do, and so do others in Chicago and Detroit and in a few other cities. I am pointing out that such action as you propose might lead to the multiplicity of parties which has practically destroyed the effectiveness of the French Government, which is also one of the real problems in Italy so far as effective government is concerned. Such a step really will be set in motion the minute you pass a civil-rights bill on the basis that you have got to make the South do something which, as I tried to point out, and the majority of the committee voted out last year, is based on completely erroneous facts. Their feelings are completely in error about what conditions are down there. Certainly the conditions were not as you thought.

The CHAIRMAN. I would like to ask one question, if I may. I understand that at the instance of the Governor of the State of Georgia, Gov. Marvin Griffin, resolutions have been offered to the State Legislature of Georgia seeking to impeach six members of the United States Supreme Court, Douglas, Black, Frankfurter, Reed, Warren, and Clark.

Then there is a statement as follows, "Georgia called on sister States in the South to join in the impeachment move."

Are you aware of that? Would Mississippi join in that movement to impeach those judges?

Mr. WHITTEN. Mr. Chairman, I read that in the morning's paper, and for me or any other person to say what Mississippi will or will not do, would be going pretty far out on a limb. I have been in the public office in my State since I was 21 years of age. I have tried to be temperate. For the 9 years I was district attorney I had only 1 case reversed by the supreme court. I believe I have a fair standing with the people in that I have had no opposition since 1944. I did not get by that way by saying what the people would do in all those kinds of cases. But I would reply to you with this question. You and various others will not agree with the South that the Supreme Court exceeded its rights when it issued the segregation decision which we believe amounted to a constitutional amendment. There are means within the Constitution for amending it, and our people believe that such means should have been used. I realize that many people in the country differ with that view.

I will ask you this. While you may believe that in that instance the Supreme Court did not abuse its authority, though many in the country think they did, if you should agree that in a proper instance the Supreme Court had gone beyond its authority; beyond the Constitution and had issued an order that would destroy the executive and legislative branches, if in a proper case the Supreme Court had taken onto itself the right to write new constitutional law and enforce it by putting people in jail, is there any remedy short of impeachment?

The CHAIRMAN. If your premise is sound, but I do not believe your premise is sound.

Mr. WHITTEN. The point I am making is that I realize you will argue with the southern viewpoint about the premises. But I am saying if you were convinced in a proper case the Supreme Court

had taken over not only its own rights, but had taken over the right of the executive department in that it issued its order to throw in jail, had taken over the legislative rights because it declared what the law was, the only remedy would be impeachment.

Mr. KEATING. But you recognize that you cannot impeach the Court just because you do not agree with the decision.

Mr. WHITTEN. I realize that, and I will carry it further, the South cannot because the majority of the people differ with the South. If the majority of the American people was of that opinion, the Court probably would be impeached, because these things follow public opinion. In the process of passing this legislation you are endangering not just the situation between white and colored citizens, but in the desire, whatever the motivating force is, you are writing into substantive law or you would in this bill provision which would reach every section of the United States. If you will check Hitler's actions in Germany or Stalin's action in Russia, the first thing they did was issue an order, and they too always claimed it was to help somebody. Then when they issued the order, they jerked the citizens up like they did in Clinton, Tenn., cited them for actions against the Government order without the right of a jury trial. The Government said, "We issued the order, we are supreme. Of course we are doing it for a good purpose." That is what Hitler said, that is what Stalin said. But they said, "We issued an order and you have to subject yourselves to it, and it you do not do it, you will go to jail, and you have no right to trial by jury."

Have we reached that day in the United States? And it is all because of an erroneous belief as to conditions in my area if I give credit to honesty on the other side. On the other hand, there is much to indicate that nobody cares how we get along down South because we get along much better than other sections on this issue.

The CHAIRMAN. Would it not have been better if instead of Congress waiting all these years to implement the 14th and 15th amendments the Congress should have enacted a statute, either one side or the other? The Supreme Court reasoned that the Congress had taken no action, and the right being there, the right had to be implemented in some way.

Mr. WHITTEN. I am going to surprise you by saying that if by doing that we would have kept the Supreme Court from writing constitutional amendments and setting out on a basis similar to Hitler and Stalin, if by taking legislative action we had prevented this weakening of our very judicial system and this endangering of our form of government, if it had that effect, there might be some argument in favor of it. But you are presuming that a situation exists which I say to you does not exist.

Mr. KEATING. Congressman Whitten, are you seriously comparing the Supreme Court to Hitler and Stalin?

Mr. WHITTEN. Mr. Keating, let us answer it this way. You know the trouble you get in when you say yes or no. I say that Hitler or Stalin took over in those countries by first having the courts to issue an order. They enforced that order by grabbing people up for not carrying the order out. They gave them no right to trial by jury. Now draw your parallel. The Supreme Court issued this nonsegregation decision. In the view of myself and many lawyers in this country it amounted to a constitutional amendment, and we know the Consti-

tution provides how it shall be amended. Having issued that order which I absolutely believe amounts to a constitutional amendment, judging by what happened at Clinton, Tenn., the Supreme Court said what the law is—Congress has not passed any act, the Supreme Court says now what the law is—therefore, you folks on this school board down here have to obey that law. They were brought properly before the court. Then those folks that were so instructed before the court presumably obeyed the court's order. But here the district judge has called in 16 other people who had neither been before the court, were not parties to the suit, and cited them for contempt of his court which would lead to imprisonment. I ask you if you cannot see the parallel between the two.

Mr. KEATING. I have great respect for the gentleman now speaking. He and I may differ on this legislation and other matters, but I have always found him restrained and reasonable in his viewpoint. I have had a lot of mail from Mississippi and other States calling me a Communist and comparing me to Hitler and the same with Mr. Brownell and the same with the President of the United States. I do not expect it from the gentleman from Mississippi. I would like to have it pointed out where the specific legislation before us, H. R. 1151, contains anything that gives rise or gives cause for any such allegations as are made, or where it would do anything to endanger the rights of anyone.

Mr. WHITTEN. I appreciate the gentleman's statement with reference to my efforts at being temperate and things of this sort, and I can and do say the same of him. If in my zeal and in the strength of my feelings in this matter I might have gotten a little out of character here, I regret it. On the other hand, I feel very, very strongly that the legislation before us would be destructive to our form of government. I say that in all sincerity and in all candor, and as calmly as I know how.

If the gentleman from New York, or either of the gentlemen from New York, the ranking member or the chairman, was to carry out the terms of this bill, that might be one thing. But I am talking about the broad authority that would be given in this. I am talking about what could be done. When you get to where you can bring a man into court and enjoin him for what you think he has been thinking, it is going just about as far as you can go.

Mr. KEATING. Where can you do that under H. R. 1151, that is enjoin the man for what he is thinking? That is absolutely without foundation.

Mr. WHITTEN. Where it says when somebody is about to attempt to do something. How would you judge that unless you read his mind and determined that he was thinking about it? If he commits an overt act, he is attempting. But when you block him when he is about to attempt, you stop him before he made a single overt act. If I remember my days when I was handling criminal law, unless he committed an overt act, you could not handle on any of the criminal statutes.

Mr. KEATING. The gentleman from Mississippi is a good lawyer. You know in order to enjoin him under an attempt to do these things which are illegal, there would have to be some overt act on his part.

Mr. WHITTEN. I know. If you pass this legislation, you can enjoin

a man about to attempt an act. I think you can go a little further than you can with the statutes I am familiar with.

Mr. ROGERS. Do you have reference to part III, page 6, of H. R. 1151, where it says "Under section 121"? You have reference there to section 1980 of the Revised Statutes, which deals with certain instances of depriving persons of their civil liberties, and so forth, and it adds a section 4 which says, "Whenever any persons have engaged, or are about to engage in any act or practice"?

Are you fearful that the wording "about to engage in any act" constitutes looking into a man's mind to ascertain the facts without any overt act?

Mr. WHITTEN. I think quite definitely it is a departure from what we have had in any law I have ever dealt with and I have prosecuted cases of a similar type, where they had engaged, and things of that sort. If the man had not engaged, and if you set out as Attorney General to take action under this, and you went in and charged that he was about to engage, if he had actually made an overt act, he was in the process of engaging, but if he had not committed an overt act, then you would have to get him because he was about to engage and there being no overt act, the only way you could do it would be by reading his mind.

Mr. KEATING. Let us get that straight. I hear all these allegations about reading the mind. There is nothing in this bill that permits anybody to do anything because they read somebody's mind. In the case you have just given us he might go up and down the street saying, "I am going to do this tomorrow morning." Instead of prosecuting him after he has committed the illegal act tomorrow morning, this bill gives the Attorney General the right tonight to enjoin him from doing what he has stated he is going to do. That is more than reading of his mind. It is a factual statement of intention.

Mr. WHITTEN. That is what I pointed out earlier. If the gentleman from New York was willing to carry this out, I daresay that you would carry it out in the way you have expressed it. Under the case you mentioned, you could definitely act. I am saying if he had not done that much, the Attorney General could go in on a different case, where he had not done any of that, because the Attorney General thought he was about to do it.

Mr. KEATING. The case would be dismissed. You cannot bring an action based merely on the reading of somebody's mind. There are countless cases holding that in any such situation there must be an overt act. The overt act can take many forms. But it cannot be based, nor is there anything in this law on which it can be based, upon the operation of a man's mind only.

The CHAIRMAN. We have heard your testimony for 1 hour. We have other Members of Congress waiting to be heard.

Mr. WHITTEN. You have been very patient.

The CHAIRMAN. We are to blame for lengthy interrogation. I would appreciate it if you would shorten your statement.

Mr. WHITTEN. You have been very patient with me, Mr. Chairman.

The CHAIRMAN. You have been patient with us.

Mr. WHITTEN. I wish to make one concluding statement. Listening to Mr. Keating and others, you are presumably basing your actions on a situation which you believe exists in the South. I say you are erroneous in your beliefs. You are basing your arguments on what

you would do if you had the job of carrying out the authority which would be granted by this legislation. I am saying that the authority is much broader and would lend itself to doing many things that you do not conceive a man would do. If it were the next election year, and it was highly important to carry Chicago, Detroit, or New York, it might be easy to send these FBI agents down South. We have seen examples of that in the past. This thing would lend itself to all kinds of chicanery of that type. It would permit the Attorney General to sue for people who did not want to be sued for and make complaints for folks who did not want to complain.

I suggest in all candor since the Attorney General can go and slash out at anybody with the Government paying all the cost that you might, and I am serious about this, use the same language you have for the Attorney General—if you can move against somebody who is about to engage in something, you ought to give the same privilege to the citizen. As you pointed out a while ago, except for a few of us in Congress, under the ruling in the Clinton, Tenn., case, the judge might be able to cite me for what I said here today. Being an official proceeding, and being in Congress, he cannot do it.

If the Attorney General can go into court with the Government paying all the costs and take action against a man because he believes he is about to engage in something, I think you ought to give the citizen the right to go into court and enjoin the Attorney General because he thinks he is about to do something. I would suggest this amendment:

Whenever any private individual believes the Attorney General or any representative of the Federal Government has engaged or is about to engage in any of the actions or practices authorized in this Act, such private individual may institute for the United States or in the name of the United States, but for the real party in interest a civil action or other proper procedure for redress or preventive relief including an application for a permanent or temporary injunction, restraining or other order In any proceeding hereunder the United States shall be liable for costs the same as the private person.

It would simply give the individual the same right you would give the Attorney General, that is, of stopping him from harassing him to death.

May I repeat this bill permits the Attorney General to anticipate the actions of somebody and go into court without the approval of that person. My amendment would permit a person who anticipated the Attorney General was beginning to attempt or beginning to engage in certain actions to go into court and issue a restraining order against the Attorney General for violating the rights of such citizen.

If you really want to protect the rights of the individual citizens of this country, Mr. Chairman, the place to start so far as this bill is concerned is to adopt this amendment, and let the private citizen have the right to go into court and restrain the Attorney General.

The CHAIRMAN. If the Attorney General went on a rampage of that sort, we would have him before this committee in a trice.

Mr. KEATING. He is suggesting an amendment restraining the Attorney General from carrying out the provisions of this act.

Mr. WHITTEN. My amendment does not do that but would give the citizen about to be harassed the right to seek protection from the same court against harassment by the Attorney General.

The CHAIRMAN. If the Attorney General were doing the things you think he is guilty of, we would have him before this committee in a

trice, and I can assure you if he did not mend his ways, he could be impeached.

Mr. WHITTEN. Mr. Chairman, that is a whole lot of comfort and we may have to call on you.

The CHAIRMAN. That would be the remedy.

Mr. WHITTEN. We may have to call on you, but the point I am making is that you are writing legislation that has so many loopholes which lends itself to so many interpretations and that is so loosely prepared—the Keating bill, and I say that with all deference to my good friend from New York—that the things I am talking about to you are possible under it. To prevent it we would be dependent upon the class and type of man you have in the Attorney General's Office. I say that when a man said I did not want to hurt anybody, but the Attorney General for political reasons, let us say, thought by jerking me up and saying that he thought I was about to engage and filing suit in court under this thing with the Government paying all the cost, if I could see he is fixing to do that to me, I could anticipate and I could go into the same court and say that the Attorney General was fixing to embarrass me, and I think I have a right to a court order to restrain him from going in there and accusing me of depriving some of my friends of rights down here. Do not think filing things under this bill would not be the most wide-open measure or the most effective means of carrying elections. You can inflame great blocks of votes in dozens of cities in this country not by convicting a fellow, but if this becomes the law, on the evidence of any election the Attorney General can say, "I am sending the FBI in there, and I am filing these suits," then when the election is over the issue is moot. It opens itself to that kind of thing.

Mr. KEATING. I have had some inflammatory mail and extremist mail from the North on the civil-rights side, mail with which I can in no way agree. But the great and vast amount of inflammatory mail has come from Mississippi, Alabama, Georgia and States like that, of the most extreme kind, charging anyone who favors this legislation with being a Communist, with being a tool of Hitler, and such kind of talk. It affords me some indication of the problem with which some gentlemen from the South are faced, but it also gives some impetus to the argument that politics is not on all one side of this question. I can understand much more clearly the position of some of those who represent these people, who have written this kind of extreme mail. Ninety percent or close to that of the inflammatory material that has come to me has come from the opponents of this legislation, and in practically every instance writing and speaking phrases which might be applicable to some of the measures which have been introduced in Congress—it is too extreme to any of them—than it is to the specific measure H. R. 1151. In my judgment, that bill has a very moderate and restrained approach to this entire subject of implementing the 14th and 15th amendments.

Mr. WHITTEN. Mr. Keating, I appreciate your earlier statements and I want to say that my relations with you have been very friendly and very cordial, but in all candor and kindness, you have about as much understanding of the real situation down there as I do of your district of New York. My knowledge of your district is restricted to the impressions I have from you, knowing you here and, may I say

they are good. The rest of the country has said this is a problem. As I said, I believe earlier and maybe you did not hear it, I believe that we have more love and affection and more respect for each other, both races, in my section of the country than you will find in New York City, Detroit, Washington, or any place you go. If left alone, we have much less of a problem than the rest of the country.

But it is highly popular in many sections of the country to run against something away off here. I was out in a Midwest State last fall where a man gives the TVA every kind of fit here in his country. The TVA is away down in Tennessee. He is away out in the Midwest. He is a good friend of mine, and I told his people, he is the smartest politician that I know. He runs against the TVA thousands of miles away from him, and he makes it a big issue in his district every year and wins. It keeps him from explaining what goes on in his own district. I wish I was as smart as he is. It is popular in the rest of the country to run against the South. We do not have anything like the problems you have in New York, Detroit, or anywhere else. I deplore these intemperate letters you get. I, too, get them from various sections, particularly from the press as these hearings have begun. We do have people like this. I deplore it when something happens. The minute you start in with the force of the Federal Government, the very intemperate letters are an indication of what you will be inviting. You will make what is a good situation today much, much worse.

Mr. KEATING. I do not want to be misunderstood. Those intemperate letters have no effect whatever on me unless it is to make me more determined than ever to see that what I believe to be right is carried out.

Mr. WHITTEN. That is a human failing, and it is also a human failing to think about the troubles away over here several thousands miles away from you.

Mr. KEATING. I shall try to maintain a fair balance.

Mr. WHITTEN. I wish you could visit with me. It would be the best thing in the world.

Mr. KEATING. I have a good many friends and, I hope the gentleman from Mississippi is counted among them, from that area. I have never lived there for an extended period so I probably do have a somewhat different attitude. It has been my hope that people from all sections of this great country, who must all be considered in the way we legislate here, would rally to the support of such a moderate bill as 1151. But I find it is not so. We might just as well, from the point of view of this mail I receive, be talking about criminal penalties and putting everybody in jail, and all such things, none of which are contained in this legislation at all.

Mr. WHITTEN. Let me say something. I want to be frank with you. I think this measure is much more dangerous than if you had one here providing jail sentences and even penitentiary sentences, because there we would have the trial by jury. When you take action through the civil courts, where they can issue an order and throw you in jail for contempt of court, though you had no notice and perhaps did not even know of the order, you have bypassed any protection the English-speaking people have had since the 10th century. This bill in my humble judgment, and I do have a high regard for the gentleman's sincerity, is much more dangerous than a criminal

statute. Here you violate everything that the English people have had in the right of trial by jury. If you issue an order and say what the law is, pick up a man and put him in jail, you have him.

Mr. Chairman, you have been very patient. If I have been intemperate in my expression it came from the strength of my feelings.

The CHAIRMAN. Thank you. I wish to say that Representative Herlong from Florida has permission to file a statement for the record at this point.

(The statement follows:)

The CHAIRMAN. Our next witness is Mr. D. R. Matthews, Representative from the State of Florida.

STATEMENT OF HON. D. R. MATTHEWS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. MATTHEWS. Mr. Chairman and members of the committee, my name is D. R. (Billy) Matthews, Member of Congress from the Eighth District of Florida. I want to say at the outset, Mr. Chairman, that I appreciate very much the privilege of appearing before this committee, and I want to also say that I want to testify against this civil-rights legislation, because I believe it is an unwarranted usurpation on the part of the Federal Government of the functions of our respective State governments.

Mr. Chairman, since maturity I have become increasingly concerned about the attempt, either conscious or unconscious on the part of many people in this country to bypass the 10th amendment to the Constitution which provides that powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people. The 10th amendment is, in my opinion, one of the basic tenets of the Jeffersonian philosophy of government to which I adhere. Commonsense, experience in government, and the maintenance of justice for our people require, in my opinion, a strict observance of the 10th amendment. Government which is far removed from the people tends to become government by absentee ownership. Unless our Government remains close to our people I believe in the not too distant future it will be supplanted by vicious despotism in one form or another.

Mr. Chairman, I cannot help but believe that this legislation is punitive legislation aimed particularly at the people of the South, which is the great section of the country that I represent. Let there be no mistake, however, in assuming that this problem of States' rights is peculiar to the South alone. I read in the Congressional Record an extension of remarks made by the Honorable J. Arthur Younger of California in which he included an address by California Assemblyman Casper W. Weinberger on the subject of States' rights. Mr. Weinberger in this very discerning article mentioned several fields which illustrate very vividly how the Federal Government, usually through the Supreme Court, but occasionally through congressional action, has already assumed dominion over many fields that people have always assumed belonged at least partially to the State. Mr. Weinberger went on to mention some of these fields, such as water and its control, the matter of the general security of our State governments, and the field of civil rights.

I think it might be well to emphasize the usurpation of general responsibility for the general security of our State governments by the Supreme Court decision in Pennsylvania versus Nelson.

Mr. Chairman, may I interpolate by saying, as you know, I am not a lawyer.

The CHAIRMAN. I congratulate you. [Laughter.]

Mr. MATTHEWS. I have very earnestly sought advice of capable lawyers. I am very much interested in the legal background, as I know the chairman is, in this great problem. As you know, sir, in the Nelson case—I am now quoting Mr. Weinberger—

> The Supreme Court agreed to reverse a conviction of an acknowledged member of the Communist Party under the Pennsylvania State Sedition Act. The Supreme Court held that the various Federal acts, the Smith Act, the Internal Security Act, and the Communist Control Act, required the inescapable conclusion that the Federal Government intended to occupy and legislate in this field exclusively and consequently there was no room left for the State governments to act. This conclusion may have been inescapable, but it certainly was unexpressed by the Congress in any of those Federal acts.

I cannot help but express grave concern over the tremendous efforts that seemingly have been made, and are still being made, to safeguard the so-called civil rights of avowed Communists by agencies of government and by many individuals who do not seem to concern themselves about the rights of many millions of people who live in the South to live and to pursue their vocations in accordance with the 10th amendment to the Constitution. And I want to make it plain, sir, I am not criticizing this great committee. I am talking about the situation in the United States.

In this connection, I was very shocked to read of the recent meeting of the Communist Party of America in the State of New York where one of the bold declarations promulgated by that small body of traitors was "to democratize the South." This heinous and vile implication merely emphasizes the point that we in the South have been making for years, and that is that the Communist Party has always been determined to stir up strife and dissension between our races, not only of course in the South, but throughout all parts of the country. I never have, and I never will, follow the leadership of the Communist Party in this area, or in any other area of activity. I know this to be the true feeling of the members of this committee. Yet I am constrained to observe that if this so-called civil rights legislation were passed, that the rights of Communists would be greater than the rights of American citizens who would find themselves in litigation being required to pay costs and counsel fees whereas the accuser would have his costs paid by the Federal Government.

Mr. Chairman, I regret that business has taken our colleague, Mr. Keating, from New York, away from the committee because I wanted to discuss his bill in particular. I know he will probably be back. I would like to proceed with just a brief point-by-point discussion of his proposed legislation to show the members of this committee that I have thought about this matter earnestly and sincerely.

This so-called civil rights legislation in my opinion is another Sherman's march to the sea. Rather than granting civil rights to a majority of our people, in my opinion it would deny basic civil rights to a majority of our people.

I should like to analyze H. R. 627, 84th Congress, as reported, which is identical to H. R. 1151, 85th Congress, and to point out the

reasons why I oppose this legislation. I realize of course that this committee has not agreed upon any final bill to report, but I am assuming that the principles of these two bills will be embodied in any final bill considered by the committee.

Returning to the analysis of these two bills, and in particular H. R. 1151, part I establishes a Commission on Civil Rights. This Commission is to be composed of 6 men and will operate in the executive branch of the Government. The Commission will be appointed by the President with the consent of the Senate, and it is specified that not more than 3 at any 1 time may be members of the same party. Four members will constitute a quorum. Members of the Commission not in Government service will receive $50 per day, actual travel expenses and $12 per diem in lieu of actual subsistence.

The duties of the Commission will be (1) to investigate "allegations" that citizens are being deprived of the right to vote or are being subjected to economic pressure because of color, race, religion, or national origin; (2) to study and collect information on economic, social, and legal denial of equal protection; (3) to appraise Federal laws and policies respecting equal protection of the laws; and to submit interim reports to the President and a final report of activities, findings and recommendations not later than 2 years from date of enactment. The Commission shall cease to exist 60 days after the submission of the final report.

The Commission may appoint a full-time staff director and other personnel subject to civil service and classification laws and procure services of individuals not in excess of $50 per diem under title 5 United States Code, section 55a. They may accept services of voluntary, uncompensated personnel and pay actual travel and subsistence expenses (or per diem of $12 in lieu of subsistence). They may constitute advisory committees and advise with State, local, and private organizational representatives. Federal agencies are to cooperate fully with the Commission.

The Commission or subcommittees of not less than 2 members, 1 of each party, may hold hearings, issue subpenas over signature of Commission or subcommittee chairman for attendance and testimony of witnesses and production of records. Upon application of the Attorney General, Federal district or territorial courts shall have jurisdiction to issue orders requiring persons guilty of contumacy or refusal to obey a subpena to appear before the Commission or subcommittee and failure to obey such orders is punishable by contempt proceedings. The necessary funds to carry out this act are authorized to be appropriated out of any nonappropriated money in the Treasury.

My opposition to this part I of the proposed legislation is based in the first place on the fact that this Commission would be authorized to investigate election matters over which, I believe, the Federal Government has no constitutional authority, and I realize again I am not a lawyer. My background is education, Mr. Chairman, and I have only been in Congress for two terms, but I sincerely believe the Federal Government has no constitutional authority over these election matters. The authority of the Federal Government concerning right to vote is distinctly limited. It is generally considered unconstitutional except as defined in the 14th and 15th amendments. See *Minor* v. *Happerset* ((1874) 88 U. S. 162). Ex Parte Yarbrough ((1884) 110 U. S. 651) to the effect that right to vote federally created,

is dicta. There is no authority to investigate unwarranted economic pressures on right to vote. This issue was decided in *Hodges* v. *U. S.* ((1906) 203 U. S. 1).

The CHAIRMAN. Not being a lawyer, you certainly bandy these cases around very well.

Mr. KEATING. I was going to say, we have been referred to them by eminent lawyers who have appeared here. You do not need any legal training.

Mr. MATTHEWS. I am grateful, sir. There is no authority to investigate unwarranted economic pressures on the right to vote.

I should like to point out that this work of the Commission seems to me to be contradictory to the rest of the bill. Congress should wait for reports of the Commission before proceeding with passage of legislation.

In other words, the Commission might give such a wonderful report of the conditions throughout the country that the following suggested legislation might not even have to be passed.

I am further opposed to this part I of the proposed legislation, because I do not believe the Commission should have the power to subpena any person to appear and testify at that person's expense. Even the Committee on the Judiciary of the House, Mr. Chairman, which has jurisdiction over this bill has no subpena power in civil-rights matters. It is my earnest conviction that if this proposed legislation were passed giving the Commission subpena power that citizens of America would have less rights than Communists, who cannot be cited for contempt unless the appropriate body of Congress gives specific approval.

The second part of the legislation provides for an Attorney General who will be a new Assistant Attorney General appointed by the President with the consent of the Senate. Compensation of this new Attorney General will be the same as present Assistant Attorneys General. This new appointment is, of course, based upon the assumption that a new Civil Rights Division will be created under the direction of this additional Assistant Attorney General.

I am against this part of the bill because in my opinion this is an attempt to invade the States and subdivisions in matters relating to integration, education, and primary elections. I am furthermore constrained to note that there is less need for a Civil Rights Division based on workload than for any other division in the Department of Justice. For example, I believe that the deportation of aliens who have been illegally admitted to this country is a far greater problem than a Civil Rights Division. I repeat again what I said before—I think this piece of legislation is one which will be used as a punitive measure against the South and one out of which many members of both of our great political parties are hoping they can gain voting members.

Part 3 of the proposed legislation would strengthen the civil-rights statutes and do many other things. Section 121 amends section 1980, Revised Statutes (42 U. S. C. 1985). The present statute prohibiting conspiracy to interfere with civil rights has added the following new section:

> The Attorney General may institute for the United States, or in the name of the United States for the benefit of real party in interest, a civil action or other proceeding for redress, permanent or temporary injunction, restraining order, against any persons who have "engaged or are about to engage in any acts or

practices" giving rise to a cause of action under presently existing sections which—

(1) establish civil liability against "two or more persons" who conspire to interfere with a United States officer in the discharge of his duties and as a result injures another or deprives another of his rights or privileges as a United States citizen;

(2) establish civil liability against "two or more persons" who conspire to intimidate or injure parties, witnesses or jurors in Federal court actions or conspire to obstruct justice in State court actions with the intent to deny any citizen equal protection of the law, if it results in injury or deprivation of a person's rights or privileges as a United States citizen;

(3) establish civil liability against "two or more persons" who conspire or go in disguise on the highway or premises of another to deprive another of equal protection of the laws, equal privileges or immunity under the law, or the right to vote for Federal offices, if such action results in injury or deprivation of another's rights or privileges as a United States citizen.

New section 5 states that district courts be given jurisdiction without regard to whether aggrieved party has exhausted administrative or legal remedies.

Section 122 amends title 28, United States Code 1343, as follows: Catch line to read: "Civil Rights and Elective Franchise."

Adds new section (4) giving Federal district courts original jurisdiction of civil action to recover damages, equitable or other relief for abuse of civil rights, including right to vote.

Mr. Chairman, I am very much opposed to this part III of the proposed legislation. It is inconceivable to me that the Federal Government should be permitted to go in the business of paying costs and counsel fees for the benefit of a real party in interest and yet insist that the defendant in the case whether finally adjudicated guilty or innocent should have to pay all of his costs and counsel fees. I cannot see for the life of me how such a procedure could be deemed constitutional. Is this not giving certain groups of citizens free legal representation and denying other groups of citizens that same privilege?

Mr. KEATING. No. The bill provides that in the proceeding authorized by the bill the United States shall be liable for costs the same as a private person. You may be referring to a provision in the previous bill. In this bill before us, the same provisions about cost apply as do in any litigation in the Federal courts. In general, the United States is an exception and is not liable for costs. If the United States brings an action and loses any kind of action, they are not liable for costs unless that obligation is specially imposed on them. In this statute we have provided an exception to the general rule that the United States shall not be liable for court costs. Here costs may be levied against the United States when it fails to prove its case.

Mr. MATTHEWS. My interpretation of it, Mr. Keating, was that the United States will pay costs of the accuser in court proceedings, but that the costs of the defense will have to be assumed by the defense.

Mr. KEATING. Except, if the defendant loses his case and is doing something he should not be doing, then properly he should pay his costs. If the defendant wins his case then he would have statutory costs against the United States. He would still have some lawyer fees just as anybody does who has litigation, even if he wins.

Mr. MATTHEWS. My point is that here the accuser has his counsel's fees paid or assumed by the Federal Government, and the defendant, whether he be guilty or innocent, has to assume that particular cost.

Mr. KEATING. You can say that is true. It is true also in a criminal case. You heard your predecessor, Congressman Whitten, make

the assertion that we might better have criminal penalties than these civil remedies. That is true with a criminal case. The complainant in a criminal case does not have to put up any money.

Mr. MATTHEWS. Mr. Keating, I know you are just as sincere as you can be about this legislation. I know you have given it tremendous study. But this is the thing that worries my people in the area of Florida that I represent. They are afraid, desperately afraid—I don't believe the members of this committee can quite realize the fear that they have—because we already begin to see certain movements. They are afraid that will-o'-the-wisp rumors backed by the great power of the Federal Government will descend on some poor man, and he, in order to clear himself, will have to assume tremendous costs, and yet the accuser, who in many cases may not have a valid accusation, has all the great power and the vast resources of the Federal Government to back his particular stand. Whether it be true or not, sir, I defer to your good judgment. But I know that is the great fear of a large number of the people that I represent.

I think this idea of not giving certain groups of citizens free legal representation, whereas other groups might have costs, is not giving the same privilege to all of our citizens. I want to repeat again that it is not inconceivable that will-o'-the-wisp rumors will descend upon the household of some innocent citizen, and he to clear his name and protect his honor will have to deprive himself of all of his material possessions, and yet the accuser enjoys the vast resources of the United States for his prosecution. This is tyranny at its worst. This is the despotism of fascism and communism. This is not the expression of our form of government which regards that all men are equal before the law. In fact, Mr Chairman, I emphasize that if this proposed legislation were passed, all men in America would not be equal before the law. Prosecutors would have the great advantage. The defendant would be denied his constitutional rights of equal protection under the law.

I am opposed to this section of the proposed legislation because the Attorney General should not be permitted to institute litigation without the knowledge or consent of the real party in interest, regardless of the insistence of various pressure groups. This proposed legislation does not grant the accused the rights that are constitutionally his.

One of the most outrageous suggestions of part III is the provision that district courts be given jurisdiction without regard to whether the aggrieved party has exhausted administrative or legal remedies. Existing law (*Pray* v. *Cox* (1951) 190 F. 2d 123) requires the exhaustion of State administrative remedies before resort is had to Federal courts. The last vestige of States' rights would be taken away if this legislation were passed In my opinion, tyranny would inevitably result.

Part 4 of the proposed legislation amends section 2004 of the Revised Statutes (42 U. S. C. 1971) which guarantees the right to vote without regard to race, color, or previous condition of servitude, as follows: It adds a new subsection (b) prohibiting any person acting under color of law or otherwise to intimidate, threaten, coerce, or attempt to do so, any person, to interfere with his right to vote as he may choose for President, Vice President, electors, Senators, Representatives, Dele-

gates or Commissioners from the Territories or possessions, at any general, special, or primary election.

A new subsection (c) is added which states that the Attorney General may institute for the United States, or in its name for benefit of real party in interest, a civil action or other proceeding for redress, permanent or temporary injunction, or restraining order against any person who has "engaged or is about to engage in" any act or practice depriving a person of the rights secured by subsections (a) and (b), and that the United States will be liable for the costs.

A new subsection (d) is added which gives the district courts jurisdiction without regard to whether aggrieved party has exhausted administrative or legal remedies.

Many of the arguments against this section apply to previous sections of the proposed legislation. The regulation of voting is traditionally a function of the State. Federal intrusion, except as defined in the 14th and 15th amendments, is unconstitutional. Please note case of *Minor* v. *Happerset* ((1874) 88 U. S. 162, 177). *United States* v. *Reece* ((1875) 92 U. S. 214, 217–218). In the case, *Peay* v. *Cox* ((1951) 190 F. 2d 123), it was clearly stated that there should be an exhaustion of administrative remedies because of commonsense. Unless the State can control its voting regulations there is no balance of power between Federal and State sovereignty. Subordinate State officials should be corrected, if they err, by State officials.

I believe if this bill were passed it may be held that Congress has preempted the field of suffrage. We therefore would have said to us that as States we cannot legislate in the field now not only of sedition, water control, and in other important matters, but we cannot legislate in the field of voting. If his legislation were passed, in my opinion, State election officials will be harassed by endless suits by the Government, by pressure organizations, and individuals.

Mr. Chairman, I am not a lawyer, but I have sought capable advice on the legal aspects of this great issue. I have tried to study thoroughly the various provisions of these so-called civil-rights bills. I am more convinced than ever, as a result of this study, that no greater disservice could be made to America than to pass this so-called civil-rights legislation.

I urgently implore the members of this great committee to kill this proposed legislation in committee, which I sincerely believe for the sake of America ought to be done. It is my firm opinion that we have sufficient laws on the statute books at the present time to enforce properly the civil rights of our people. I think that this super-duper piece of legislation is not necessary, is an unwarranted invasion of States' rights, will be used as a political instrument to get votes, and will do more to tear our people apart than any piece of legislation which has been considered in Congress since I have been a Member.

Thank you again for permitting me this opportunity to testify before you.

The CHAIRMAN. We appreciate your lawyer-like argument before us this morning.

Mr. MATTHEWS. Thank you.

The CHAIRMAN. I would like to place in the record a statement of our colleague, Representative Frank Thompson, Jr., of the State of New Jersey.

(The statement follows:)

STATEMENT OF REPRESENTATIVE FRANK THOMPSON, JR. OF NEW JERSEY

Mr. Chairman, I wish first to congratulate you and the other members of the Judiciary Committee of the House of Representatives for the promptness with which you have moved to hold these civil rights hearings. If we learned anything from the failure of the 84th Congress to enact legislation in this important field it is that there must be action early in the session if House-passed civil rights bills are to have any realistic chance of adoption by the Senate.

On the opening day of the present session, I had the satisfaction and the honor to introduce four bills in the matter of civil rights which I believe are vital parts of any meaningful program These bills are as follows

H R 956 A bill to reorganize the Department of Justice for the protection of civil rights;

H R 957 A bill to declare certain rights of all persons within the jurisdiction of the United States, and for the protection of such persons from lynching, and for other purposes;

H R 958 A bill to protect the right to political participation, and

H R 959 A bill to establish a Commission on Civil Rights in the executive branch of the Government

Since the convening of the 85th Congress, dozens of bills relating to civil rights have been submitted by numerous Members of the House of Representatives Major consideration will be given, understandably, to the omnibus bills submitted by the chairman of the committee, Mr Celler (H R 2145), and by the ranking minority member of the committee, Mr. Keating (H. R. 1151).

I am highly pleased that the essence of 3 of my 4 bills is included in each of these omnibus measures These measures by Mr Celler and Mr. Keating include proposals for the establishment of a Presidential Commission, for protecting the right to vote, and for the strengthening of the Department of Justice. My proposal for an antilynching statute is not included in either H R 2145 or H R 1151

Mr Chairman, I am proud of the bills I have submitted, but after examining the above-mentioned omnibus measures, it is my belief that the Celler bill, H. R 2145, is a carefully drawn, meaningful bill and deserves the enthusiastic support of every Member of the House of Representatives Even this bill, of course, does not include every sound proposal which has been made in this very vital area of civil rights But it does constitute a well-balanced, forward-looking program The chairman of the committee is to be commended for the bill.

The Celler bill contains within it all of the parts of the so-called administration proposals—although even some of these have been strengthened in the Celler bill. Moreover, even these so-called administration proposals are merely modified versions of civil rights proposals offered by many Democratic Members of the Senate and House for at least 10 years since the report made in 1947 by President Truman's Committee on Civil Rights

I do not wish to be misunderstood I welcome the administration recommendations, inadequate and belated as they are I know that Republican votes are needed for the passage of any civil rights bills But I do believe and insist that the record should be kept straight.

Until the beginning of 1956, which happened to be an election year, there were no recommendations from the White House on civil rights legislation

If bipartisan support is not available for more than the administration proposals, then we may again, as we did last year, have to compromise on the program now embodied in H R. 1151, the bill offered by Mr Keating. I favor all of the parts of this bill even though I believe it does not go far enough.

The recommendations on civil rights outlined in the President's message coincide with the action taken by the House last year and are set forth in Mr. Keating's bill. This civil rights "package" is composed of four parts.

1. COMMISSION ON CIVIL RIGHTS

The purpose of this Commission shall be to investigate allegations of deprivation of the right to vote and of unwarranted economic pressures by reason of color or race, study developments which deny equal protection of the law; and appraise the laws and policies of the Federal Government with respect to equal protection under the Constitution.

Certainly such a Commission must be composed of eminent and public-spirited citizens and be adequately financed and staffed and it must be vigilant in its

work. It, also, must not be used as an excuse to delay the passage of important legislation to protect and expand the civil rights of our citizens.

2. CIVIL RIGHTS DIVISION

The creation of a Civil Rights Division in the Department of Justice is proposed, even though the President or the Attorney General can even now employ more assistants and set up a division within the Department. Such legislation, if adopted, would prevent further delay in this important matter.

3. RIGHT TO VOTE

This vital proposal would give the United States clear authorization to take civil action to redress or prevent unconstitutional deprivation of the right to vote. Therefore, this should be strongly supported by everyone concerned with civil rights, since the most precious right of all in our country is the right to vote. The Federal Constitution recognizes the right to vote but the sad fact is that the right has not been adequately protected and in many parts of the country Negroes have been deprived of it. Existing statutes have two major defects:

The Department of Justice does not have authority to invoke civil remedies for the enforcement of voting rights and may not apply to the courts for preventive relief in those situations where citizens clearly will be deprived of their right to vote.

Also the existing laws do not protect voters in Federal elections from unlawful interference with their voting rights by private persons. In other words, they apply only to public officials.

4. STRENGTHENING CIVIL RIGHTS STATUTES

Here it is proopsed that the Congress authorize the Attorney General to seek civil remedies in the civil courts for the enforcement of the present civil rights laws. At present, civil suits are possible only by the private persons who are injured by violation of their civil rights.

The Attorney General testified before the House Judiciary Committee last year that at present he does not have "authority to institute a civil action for preventive relief."

The Celler bill represents an improvement over the administration plans because, in addition to these basic recommendations, it would provide for the following: (*a*) increased punishment for violations of civil rights statutes where death or maiming results; (*b*) clarification of civil rights statutes to facilitate enforcement of same; (*c*) prohibition against discrimination or segregation in interstate transportation; (*d*) creation of a Joint Congressional Committee on Civil Rights with subpena powers.

Mr. Chairman, I submit that all of these important provisions are welcome improvements over the administration bill. In addition, Mr. Celler would—as I have proposed in my bill H. R. 959—make the Commission on Civil Rights a permanent Federal agency.

Both the Republican and Democratic platforms call for the enactment of civil rights legislation. The 1956 Democratic platform contained this excellent and specific statement:

"The Democratic Party is committed to support and advance the individual rights and liberties of all Americans. Our country is founded on the proposition that all men are created equal. This means that all citizens are equal before the law and should enjoy all political rights. They should have equal opportunities for education, for economic advancement, and for decent living conditions * * *.

"The Democratic Party pledges itself to continue its efforts to eliminate illegal discriminations of all kinds, in relation to (1) full rights to vote, (2) full rights to engage in gainful occupations, (3) full rights to enjoy security of the person, and (4) full rights to education in all publicly supported institutions."

Prejudice and bigotry are dark and evil things and no law that has ever been drafted or can be drafted can change men's hearts. The golden rule of brotherhood which Jesus taught cannot be legislated. But, while prejudice and bigotry are personal, discrimination, segregation, lawlessness, and inequality are not. These must be and can be dealt with, and we can no longer delay dealing with them. The time has come when we must face up to this problem and do more than give lip service to our great ideals. The Congress must demonstrate that it has a conscience, and that it is aware of and determined to do something concrete at last about implementing the ancient freedoms that are set forth in

those great charters of our Nation—the Declaration of Independence and the Constitution of the United States.

No other step we could take would do so much to give meaning to our own professions of faith and give us moral standing in the eyes of the hundreds of millions of people in Asia and Africa who are looking to us for leadership. If we fail to take a stand, no amount of foreign-aid funds, no amount of money that we will ever spend will be able to stave off an ultimate defeat of grave proportions.

Mr Chairman, no funds are required here to achieve a victory of worldwide significance, only an expression of faith in our own democracy.

I would like to include here the statement on civil rights approved by the AFL-CIO executive council on February 4, 1957, which states so well my own views of the legislation being considered by your committee.

STATEMENT ON CIVIL RIGHTS

Report and recommendations of the AFL–CIO committee on ethical practices, approved by the AFL–CIO executive council, Miami Beach, Fla., February 4, 1957

As the champion of freedom, of human rights, and of true democracy in the present-day world, American people and their Government have a special and urgent responsibility to extend equal rights and equal opportunity to all Americans in every field of life.

The AFL–CIO believes it is the first order of business of the 85th Congress to enact civil-rights legislation in order to give practical application and the force and effect of statutory law to the basic rights guaranteed to every American by the United States Constitution and the Bill of Rights.

The pronouncements of the United States Supreme Court have left no lawful room for segregation because of race or color of children in our schools or of passengers in public transit. This is the law of the land.

It is now the corresponding responsibility of the legislative and the executive branches of our Federal Government to give this law full effect.

We call upon Congress to enact the following legislation making enforceable and more secure civil rights pledged and proclaimed by the United States Constitution:

1. In order to give full effect to the franchise as the fundamental rights of citizenship, we call for a Federal anti-poll-tax law, invalidating State laws which require the payment of a poll tax as a prerequisite to voting.

The 15th amendment, affirming this right and giving specific power to the Congress to enforce it by appropriate legislation, was ratified and put into effect in 1870—87 years ago. Yet Congress has taken no action to override the State poll-tax laws which, though contrary to the Constitution, are still in effect in Alabama, Arkansas, Mississippi, Tennessee, Texas, and Virginia.

2. In order to give adequate Federal protection to the right to vote, there is also need for a law authorizing civil actions by the United States to redress or prevent any unconstitutional deprivation of the right to vote.

3 In order to give effect to the constitutional guaranty that no person shall be deprived of life, liberty, or property without due process of law, we call for a law making lynching a Federal crime

4. We urge that the present civil-rights laws be strengthened by authorizing the Attorney General to bring civil actions to present or redress certain acts or practices which violate existing civil-rights acts.

5. We ask that there be established in the Department of Justice a Civil Rights Division and that a position be established of an Assistant Attorney General for Civil Rights in charge of this Division. This provision is necessary to provide adequate review and enforcement machinery to enable the Federal Government to give effective protection to civil rights.

6. We call for the enactment by Congress of a permanent fair-employment-practices law assuring to all workers in interstate commerce equal employment opportunity without regard to race, creed, color, or national origin.

We strongly urge the Senate of the United States to give prompt consideration to the change in its rules to permit a majority of Senators present and voting to limit and close debate.

In addition, we call on the executive branch of the Government to utilize its full powers to overcome and to punish any unlawful attempts to block the

effectuation of the Supreme Court decisions outlawing segregation in the schools, public conveyances, public recreation, and housing.

We have taken steps to give effect to the objective of the AFL–CIO constitution "to encourage all workers without regard to race, creed, color, or national origin to share in the full benefits of union organization."

In our drive for civil rights, we are confident of winning wholehearted and wide support of the entire trade-union movement in America.

The CHAIRMAN. We have with us the Hon. George Huddleston, Jr., the distinguished representative from the State of Alabama.

STATEMENT OF HON. GEORGE HUDDLESTON, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. HUDDLESTON. Mr. Chairman and members of the committee, at the outset let me express my appreciation for the courtesy which you gentlemen have shown me in permitting me to make a statement at this very important hearing. This is a matter of great concern, not only to the people of my district, but to our citizens all over the country.

I am opposed to H. R. 1151 (the Keating bill), and H. R. 2145 (the Celler bill) and to other so-called civil rights bills which are the subject of this hearing. Since the administration has recommended passage of H. R. 1151, and since that seems to be the bill which will be reported out by this subcommittee, in the limited time available I would like to confine my discussion to this particular piece of legislation.

I oppose the entire bill for the reasons which have been so ably stated by its opponents in the course of these hearings. Of particular concern to me, however, is section 121 of part III of this bill. Similar provisions are contained in the Celler bill, H. R. 2145, and other bills which have been introduced by various Members of Congress. This section purports to empower the Attorney General to institute civil actions for redress or injunctive relief in cases in which it is alleged that persons have engaged or are about to engage in acts or practices in violation of the civil rights of other individuals.

As many of you know, I represent the Ninth Congressional District of Alabama. This district comprises Jefferson County and the city of Birmingham. Birmingham is recognized throughout the country as the industrial center of the Southeastern States. With a population of over 600,000, we play a vital role in the industrial economy of this country. In fact, we produce 9 percent of the total iron and steel production of the country and, believe it or not, 80 percent of the cast-iron pipe. My district is one of the few economically integrated districts in the Nation. I have 60,000 members of organized labor numbered among my constituents and I also have the management for that labor located in my district.

Because of the tremendous industrial and manufacturing activity in the Ninth District of Alabama, I, as its Representative, have a great deal in common with many of the northern Congressmen on my side of the aisle who represent labor districts in northern cities and also many of the Members on the other side of the aisle who count among their constituents sizeable segments of the industrial management of this country.

It is my content that section 121 of part III of H. R. 1151 applies to labor-management relations just as it applies to race relations and, if you will bear with me for a few moments, I would like to explain to you why I have this view.

Section 121 reads as follows:

SEC. 121 Section 1980 of the Revised Statutes (42 U. S. C. 1985), is amended by adding thereto two paragraphs to be designated "fourth" and "fifth" and to read as follows:

Fourth Whenever any persons have engaged or are about to engage in any acts or practices which would give rise to a cause of action pursuant to paragraphs first, second, or third, the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

Fifth The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

You will note that this section refers to paragraphs first, second, and third of title 42, United States Code, section 1985, and adds paragraphs fourth and fifth.

I might add that section 204 on page 13 of the Celler bill does the same thing.

In order to better understand what I am talking about, let me read paragraph 3 of the existing law, title 42, United States Code, section 1985. It says, among other things:

If two or more persons conspire for the purpose of depriving any person of the equal protection of the laws or of equal privileges and immunities under the laws, the party so injured or deprived may have an action for the recovery of damages.

As you will see, paragraph 3 makes no mention of race, creed, color, or national origin. It is not intended that the benefits of this section should be extended only to those who have been deprived of the equal protection of the laws because of race, creed, color, or national origin. In fact, beginning in 1877, the Supreme Court—in what have been called the Granger cases—applied the 14th amendment and statutes enacted pursuant thereto to all "persons," including corporations. In the case of *Yick Wo.* v. *Hopkins* (118 U. S. 356 (1886)), the Court, acting through Chief Justice Waite, settled once and for all the question of the extent of the 14th amendment and of the existing civil rights laws, using these words in the opinion:

These provisions, i. e., equal protection of laws, are universal in their application, to all persons within the Territorial jurisdiction without regard to any differences of race, or color, or of nationality.

It is a common misconception among our people that the 14th amendment and the present civil rights laws apply only to those who have been deprived of the equal protection of the laws because of race, color, or national origin. But this is not so. They apply to all persons and all persons are protected by them. This even includes corporations which have been defined, for the purposes of the 14th amendment and civil rights statutes, as "persons."

The CHAIRMAN. You must remember that old statute refers to a conspiracy.

Mr. HUDDLESTON. There are two criminal provisions. Are you talking about the civil rights statutes or the criminal statutes?

The CHAIRMAN. The statute which you read from, which we are amending, provides as a necessary condition precedent for any prosecution that there be a conspiracy. There must be two or more persons.

Mr. HUDDLESTON. This section is referred to in section 121 of the Keating bill as one of the bases under which the Attorney General can apply for injunction.

Mr. Chairman, you will note that in paragraph 3 of the present title 42, United States Code, section 1985, the term "equal protection of the laws" is used. Just what does this phrase mean? The Supreme Court long ago in the case of *Barbier* v. *Connolly* (113 U. S. 27 (1885)) defined it as the protection of equal laws. It requires, and I quote:

That equal protection and security should be given to all under like circumstances in the enjoyment of their personal and civil rights.

Based on what I have said before, I am sure that you will agree that the term "equal protection of laws" is not limited to race relations only. It embraces all other personal and civil rights which have been extended to the people in this country by the Constitution and also by the laws of the United States.

Now I get down to one of the major reasons why I oppose section 121 of part III of H. R. 1151. As I have said, the term "equal protection of the laws" applies to all laws of the country which extend rights and privileges to citizens and other persons. The rights which I have particular reference to are those which were initially spelled out in the Wagner Labor Relations Act and later the Labor-Management Relations Act of 1947, otherwise known as the Taft-Hartley Act. These rights appear in title 29, United States Code, section 157. With your indulgence, I would like to read this section.

RIGHTS OF EMPLOYEES AS TO ORGANIZATION, COLLECTIVE BARGAINING, ETC.

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities.

The first set of rights were extended by the Wagner Act and the right to refrain from activities first mentioned was extended by the Labor-Management Relations Act of 1947.

It is my contention that these rights conferred by the Wagner Act and the Labor-Management Relations Act of 1947 are included within the meaning of the term "equal protection of the laws." These are "laws" of this country.

The CHAIRMAN. It is significant that the labor organizations that have presented a statement here, that is, the CIO–AFL, are supporting these bills.

Mr. HUDDLESTON. That may be so. I think the line of argument that I am presenting at this time has not occurred to them. It is my firm conviction that if they were acquainted with this situation I think they would think twice before they endorsed this provision.

The CHAIRMAN. I am sure they know of that provision but nonetheless they favor the legislation.

Mr. HUDDLESTON. Mr. Chairman, prior to coming to Congress, for 4 years I served as assistant United States attorney in the northern part of the State of Alabama, and when I complete my statement I would give you an instance where we did invoke the criminal civil rights statutes at that time in prosecuting members of organized labor for violations of these rights which are guaranteed by the Taft-Hartley Act. I would like to refer to that in just a moment.

The CHAIRMAN. Very well.

Mr. HUDDLESTON. Section 121 of part III of H. R. 1151 extends to the Attorney General the authority to intervene in case of acts or practices which would give rise to a cause of action pursuant to the existing civil-rights laws. In other words, if two or more persons conspire to deprive another of equal protection of the laws, the Attorney General may institute a civil suit. He can do this without the consent of the alleged aggrieved party and even over his strenuous objection.

The Attorney General is given by this section 121 the authority to intervene in matters involving violations of the rights extended and conferred by the Wagner Act and the Labor-Management Relations Act of 1947. As I have quoted from these acts above, the right to join a labor organization is one of these rights. Also is the right to refrain from joining a labor organization. These are only two of the rights which are conferred on employees and employers by these acts and if persons are deprived of these rights by others, they are denied the equal protection of the laws.

You can see what the result would be. All cases of complaints on behalf of a company against a union or a union against a company would be subject to intervention by the Attorney General. By giving the Attorney General this power, the bill in effect circumvents the National Labor Relations Board, which has a statutory jurisdiction over labor-management relations, and gives the Attorney General concurrent jurisdiction with the Board.

Section 121 of H. R. 1151 puts labor-management relations in the middle of politics. Instead of the Government being the umpire, as it presently is, the bill would actually make it a party litigant. A politically minded Attorney General could use section 121 of this bill to destroy either union or management, depending upon what would best serve the interests of the administration of which he is a part.

Let me give you an example. If an employee is fired for allegedly joining a labor union, he has a right guaranteed by the Wagner Act and as such is deprived of his equal protection of the laws. The Attorney General could sue the company for this deprivation and have the unlimited resources of the country at his disposal.

On the other hand, if a union allegedly violated the rights of employees to refrain from joining labor organizations, as granted in the Labor-Management Relations Act of 1947, they will have been deprived of their equal protection of the laws.

The CHAIRMAN. I just want to state that if this bill had all these inherent dangers that you speak of, we certainly would have objections from management or from labor, and we have heard no objections from the large management organizations like the National Association of Manufacturers, the United States Chamber of Commerce, or the State chambers of commerce, or any labor organizations.

Mr. HUDDLESTON. Let me ask you, if I may, have you received any communications at all from the first-named organizations?

The CHAIRMAN. No.

Mr. HUDDLESTON. I mean either for or against the bill?

The CHAIRMAN. If they felt that there were the dangers that you recite in detail here, we would hear from them beyond question.

Mr. HUDDLESTON. If they are aware of them.

The CHAIRMAN. They must be aware of them because they have expert staffs and legal counsel. They follow every bill that is offered in the Congress. They know what is going on.

Mr. HUDDLESTON. I am merely presenting these arguments for what they are worth. When I do complete my statement I would like to cite you an instance which occurred when I was in the office of the United States attorney in Birmingham some years ago.

The CHAIRMAN. We will welcome your argument without question, and are glad to hear from you.

Mr. HUDDLESTON. The Attorney General could file suits against the union, even without the consent of the alleged aggrieved employees, under the provisions of section 121 of this bill.

These rights, which I have mentioned, are protected by the National Labor Relations Board as are all other rights and privileges guaranteed by the Wagner Act and the Labor Management Relations Act of 1947.

By plaguing either company or union with suits, the Attorney General could destroy or bankrupt either or both. This double-edged sword which is created by section 121 of H. R. 1151 could be used to persecute and hamstring labor or management, depending on what best suited the administration in power at that time. H. R. 1151 is a dangerous bill in many respects and I feel that one of the most important of these is the effect which section 121 will have in putting labor-management relations into politics.

In my humble opinion, you members of this committee from the North and West would do well to give careful consideration to the arguments I have presented. I believe that these arguments have force and substance and that H. R. 1151 and similar provisions in other pending bills will have a serious effect on our traditional concept of labor-management relations. Who knows but that, if this bill is approved by this subcommittee, then by the full committee, then by the House and finally by the Senate, and is signed into law by the President, a year or so from now those who are presently supporting this legislation may come back into Congress crying for its repeal. I wouldn't be at all surprised.

The CHAIRMAN. I would be surprised. I do want to compliment you on the ingeniusness of your argument and its refreshing character, because I made the statement somewhere along these hearings that we had not heard anything new.

Mr. HUDDLESTON. Now you have.

Mr. KEATING. Now we have. You claim that these bills, specifically H. R. 1151, ought to be opposed by everybody in business, and everybody that works for a living because it would interfere with their rights. I do not agree with you, but it has been refreshing to hear something novel. You are the one man that has contributed something new to our hearings, as far as I am concerned, and for that I congratulate you.

Mr. HUDDLESTON. Thank you, Mr. Keating.

If I may, I would like to take a minute or more of the committee's time in recounting an experience which I had while I was serving as assistant United States attorney for the north district of Alabama.

Back in 1948, we had a labor difficulty in one of our adjoining counties to Jefferson County, where Birmingham is located, and a group of miners who were attempting to organize a mine went over to a nonunion mine—went over armed—and shot the place up, and one of the miners was killed. There were several hundred union miners involved and 6 or 8 of the owners and operators of this mine. There was a great deal of publicity given to the incident, of course. It reached the ears of the Attorney General, who at that time was Tom Clark.

Attorney General Clark sent word down to our office in Birmingham for us to search the Federal statutes to see if there had not been some Federal criminal statute involved, rather than merely on the basis of it being a police action for the State to handle.

We searched the statutes, and we came up with title 18, sections 241 and 242. I can't quote those sections precisely, but it is something to the effect of acting under cover of law, depriving a person of rights guaranteed to him by the Constitution or laws of the United States. Whether right had been guaranteed to these mine operators by the Constitution or the laws of the United States that had been violated by these miners.

We hunted through that and we could only come up with one. By searching the Taft-Hartley Act we came up with this right that was guaranteed by the Taft-Hartley Act for those men to refrain from joining a labor organization.

We presented an indictment to the grand jury, and the men were indited along with the sheriff, since it was necessary to have some public official in it in order to come within the purview of the section. The sheriff had been dilatory in his duties and he was brought in on that basis.

The indictment was returned by the grand jury, charging these men with the violation of title 18, sections 241 and 242, in that they had denied these mine operators of the right guaranteed them by the Constitution and laws of the United States, that right being this provision of the Taft-Hartley Act.

With that the indictments were returned and trial was held, or a trial was scheduled, and some of the men pleaded guilty and others on whom the evidence was far weaker were nol-prossed.

At the time we came up with that theory of the case, we sent that back to Mr. Clark for him to decide whether we ought to pursue on that theory or whether we ought to give up because that was the only thing we could find to hang the case on.

Mr. Clark approved that theory of the case. He approved the theory that these men had been in fact guilty of a civil-rights violation because they had in fact denied these mine operators of a right guaranteed to them by a law of the United States, the Taft-Hartley Act.

The case proceeded on that. That case never was appealed.

Mr. KEATING. Was the indictment even challenged?

Mr. HUDDLESTON. It never went through the courts. We have no judicial interpretation as to whether we were right in our theory of the case.

Mr. KEATING. Did Mr. Clark approve it?

Mr. HUDDLESTON. It indicates that his office gave it some study.

Mr. KEATING. Would give approval of at least a present Supreme Court Justice. You agree with his decision in that case?

Mr. HUDDLESTON. I was an assistant United States attorney for the northern district of Alabama, and as such I was sworn to uphold the Constitution and laws of the United States and to pursue the duties of my office, which were to prosecute law violators. I was obeying orders, and what I thought about that particular case was neither here nor there. I was obeying the orders of my superiors.

Mr. KEATING. At least you are using that as an argument and a precedent now for an attack on this bill, as being an interference with the protection of rights of management and labor.

Mr. HUDDLESTON. Yes. I think it has merit, if it please the gentlemen of the committee. I think it is certainly something that ought to be taken into consideration. Assuming that the United States attorney's office in Birmingham was correct in applying that theory of the case to that mine incident, the same thing can be applied to this section 121 of the bill H. R. 1151.

The CHAIRMAN. Is that all, sir?

Mr. HUDDLESTON. Yes, sir. I thank the commmittee for allowing me to appear.

The CHAIRMAN. I want to commend your clear and novel argument this morning, which was sincerely and enthusiastically presented. I think it was George Bernard Shaw who once said that youth is a wonderful thing, but why waste it on young people.

Mr. HUDDLESTON. I think he said children, but I am not exactly a child.

The CHAIRMAN. Your youth was not wasted. You have put it to splendid advantage.

Mr. HUDDLESTON. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Callison, would you care to go on now, or would you want to wait until 2 o'clock. We will adjourn at 12:30.

Mr. CALLISON. I doubt if it would be well to begin at this time, sir.

The CHAIRMAN. We will adjourn now until 2 o'clock this afternoon.

(Thereupon, at 12:15 o'clock p. m., a recess was taken until 2 p. m., the same day.)

AFTER RECESS

(The hearing was resumed at 2 p. m., Chairman Celler presiding.)

The CHAIRMAN. The subcommittee will be in order.

The first witness this afternoon is the distinguished attorney general of the State of South Carolina, from Columbia, Mr. T. C. Callison. Our distinguished colleague on our committee will graciously introduce the gentleman.

Mr. ASHMORE. I would like to say that South Carolina is here in force today, and not with the idea to have any intention of trying to overwhelm the committee but just to present our feeling and let it be known how the folks in South Carolina feel about this legislation.

If I may introduce all of these gentlemen, we have with us Mr. Tracy James, a member of the legislature from my district, Spartanburg County, who has served our State for 7 years in the State legislature and as chairman of numerous committees and served for a long time under the great Sol Blott as speaker pro tempore.

We also have with us Senator Neese, from Bamberg County, who is much older than he looks. He looks like a high-school boy, but he has served honorably in World War II and carries wounds with him now that he will take to his grave. He is now State senator from Bamberg County and formerly the chairman of our South Carolina Highway Department, which is known as one of the best in the country.

We also have several of my colleagues from South Carolina, Congressman Riley and Congressman McMillan, and Congressman Dorn was here a little while ago. I believe a majority of the delegation was present.

Now, the two gentlemen who will speak to this great committee are outstanding citizens in South Carolina. The attorney general of our State served for 16 years as prosecuting attorney. He served for 10 years, I believe, as assistant attorney general and he has held the position of attorney general for 6 years, making it more than 30 years of service to our folks at home.

Mr. Callison is a great lawyer. He was a great prosecutor and he is above all, I think, a Christian gentleman. He is not a man of extremes in any respect. He is a tolerant man, well versed in the law and one who knows humanity and knows and loves his people.

I think that the snow-white hair on his head is indicative of the purity and wholesomeness and sincere justice that reigns in his heart and mind and soul. He will speak to us first, and then I would like to introduce the other gentleman who will speak.

The CHAIRMAN. We would like to conclude the hearings at 4:30 so I hope that the speakers will keep that in mind. If you consume a half hour each, I think that will be ample.

STATEMENT OF T. C. CALLISON, ATTORNEY GENERAL OF SOUTH CAROLINA, COLUMBIA, S. C.

Mr. CALLISON. Mr. Chairman, I certainly will not oppose that because there is some reason why I feel I need, to some extent, to restrain myself. I think that I prefer to stand, at least a part of the time, and because of weakness in my voice I don't think I could get along quite so well sitting as standing.

Now, Mr. Chairman and gentlemen of the committee, as has been announced, my name is T. C. Callison, attorney general of the State of South Carolina. I am indeed pleased to be here and that you gentlemen have suffered us this opportunity to be here. I say suffer you are going to suffer and you have suffered in my opinion, from having these talks and arguments repeated over and over again.

The CHAIRMAN. From the introduction we have had of you, there is not going to be any suffering. It will be a pleasure.

Mr. CALLISON. I would like possibly to take a little different course from some of the arguments which I have heard. I think one of the greatest difficulties people in your section and the people of my section have is lack of knowledge or information, one as to the other.

If you will indulge me, I would like before getting into any specific bill, to give a general summary of the conditions in the State of South Carolina so far as civil rights are concerned and so far as the rights of every kind of individuals who are within the borders of our State.

I am glad to say, and I hope you have not found it differently, that we are doing well. We are peaceful. We are having no particular disturbance. Industry has seen fit to recognize the merit within our borders and we have been quite blessed with the natural resources of that section and, the greatest of all, in my opinion, to attract industry and to attract people.

There has been a fine relationship existing in the State of South Carolina between the races. I cannot help but feel, gentlemen, that while this proposed legislation is a coverall so far as civil rights are concerned, there is possibly in the background something which stands out more prominently than any other phase of it.

It is with reference to the question of segregation which has been so much in the minds of the people for the last 2 to 4 years.

I am not submitting at this time a prepared statement which I have, because as I go along I think perhaps there will be some digression from the statement which I do have. I find that in considering the two bills which the chairman has suggested, we cannot get a very clear picture of the whole field without reverting to some other bills of the many which have been submitted. I find that it will be necessary for me to refer to certain other bills which have been introduced covering different phases of civil rights, in order that we may get an overall picture of the legislation proposed by these bills.

In this way we can probably better see the general scheme or purpose of those who are interested in passing this particular legislation.

While numerous bills are already introduced that deal with particular branches of so-called civil-rights legislation such as H. R. 359 by Mr. O'Hara, of Illinois, which may be regarded as an antilynching bill, this feature is also covered by H. R. 441 by Mr. Roosevelt.

Another bill, H. R. 438, by Mr. Roosevelt, deals with the subject of convict labor, peonage, and involuntary servitude. Those are rights which are classified apparently in the minds of some as civil rights. While your bill and Mr. Keating's bill do not specifically mention some of these, yet I think they are broad enough to cover it.

The CHAIRMAN. You need not waste any time on those provisions because I can assure you that they will be discarded by the committee.

Mr. CALLISON. Thank you, sir, for that information. I have gathered, of course, that you are particularly interested in the Keating bill and in the bill which you, yourself, introduced. But in order, as I say, to get a general scope of the purpose of the legislation I have thought it well to go into some of these matters, and not to discuss them but merely to discuss the subject with which they deal.

Now, most of the bills so far introduced simply repeated Federal statutory law on these subjects and go further and clearly indicate a real purpose of all of the proposed legislation not to create any new civil rights so to speak, but to provide a new and different remedy of enforcement. That in my opinion, is the real point at issue.

Now, before discussing the specific bills, let me go further, if you will indulge me, in giving you some part of the picture of the State of South Carolina. I fear that you people do not quite understand us.

I fear that the real facts do not quite get publication. Someone has suggested and I would be delighted for any man from any section of the country to come into my State and spend the time and see for yourselves how absolutely impartial we are in trying to give everyone that which belongs to him.

Now, we do differ from some other sections on some things which we think we can disagree about and we cannot apply the same rules of measure to every condition and to every individual. To begin with, the legislature has grown out of, and has been prompted by or caused to be much advertised, because of the 1954 decision of the United States Supreme Court.

In the first place, the proposed legislation covered by the several bills intended to carry out the recommendations of the Department of Justice or the President as it may be and submitted by the Attorney General, in my opinion is wholly unnecessary and will be, if enacted, detrimental to the principles of government upon which this Nation was founded.

The considered purpose of the founders of this Government was to provide a dual system of government, each State retaining the unquestioned right to all powers not delegated to the Central Government.

Now, you have heard a thousand statements and you may say it is useless to repeat it. But let us not forget the fact that there first came into existence in the form of government in this country, the States. And the States created the Federal Government. The States granted certain powers to the Federal Government and reserved all others to themselves.

Are we going to undertake to do anything—I do not think we would conscientiously do it—to break that dual system of government? It enables us to have an overall central government to deal with those things of an international nature and of an interstate nature and at the same time it gives the States and the subdivisions of the States the right and power and authority to conduct their own business in accordance with the law.

When you get away from that system, from the very lowest unit on up, building up to the National Government, you get away from that system and the people suffer. I do not think that there is any question about what that result would be. We should not overlook the fact that with our system, the States and the National Government have cooperated in the past in the protection of the civil rights of everyone.

Now, some of you may question that so far as we are concerned, but with your indulgence, and to be a little different perhaps from all of the testimony you have heard, I would like to recite some instances in the State of South Carolina which come directly under my observation and in which I have participated.

Now, I do not want, by saying that or doing that, to indicate that I am trying to hold up to you that I have done anything unusual. But I want to use it as an illustration of what my State generally has done and what the other Southern States have done.

It has been my privilege, as has already been announced, to serve as a prosecuting attorney in my State for 16 years and I would invite anyone to come into my State and find a single case coming under

my jurisdiction which would in any manner smack of discrimination against any individual who was brought into the court.

These bills are indicating that they are not getting the same treatment or the people generally are not getting the same treatment. There are those who, through ignorance or lack of information of the conditions and relationships existing between the races down there, seem determined to bring about conditions which will breed ill will, create friction among our people and generally cause the fine spirit of cooperation which has heretofore existed to deteriorate to a point, gentlemen, where anything can happen.

I am making that statement advisedly because I know the people. I know the wishes of the people. I know the reaction of the people. I know this is in the last analysis a question of race. Racial issues exist in every part of the world today. Races which live in the same country side by side must live, if they are going to live peaceably, separately so to speak, or apart, separated one from the other. I think we might refer to what is going on in the world today with reference to race questions and go to the Middle East.

While our President is working hard as a second Moses, leading an exodus, it is true that the conditions there are brought about because of race, two separate and distinct races. They are incompatible.

The CHAIRMAN. They are both of the Semitic race.

Mr. CALLISON. You may be correct about that, but so far as common knowledge is concerned, one is Egyptian and the other is Israelite and everybody as I understand, recognizes it as separate and distinct people. For some reason, and I don't undertake to say why or who is to blame, they are not compatible. They cannot live under the same roof.

The CHAIRMAN. I have been there and they can live very easily together. It is their leaders who for political purposes, and what you call the effendi, the big landowners, who are creating trouble, because little Israel is elevating the standard of living over there. These effendi do not want the standard of living of the people to be advanced because that would be poaching on their preserves. That is the trouble over there.

They are both of the same race and they have always gotten along well together and if it were not for the leaders, those who are on this side of the Jordan and particularly in Egypt, they would continue to do so.

Mr. CALLISON. Now, Mr. Chairman, I am glad that you made that statement, sir. I don't mean to be offensive—I want to be as diplomatic as possible—but in my humble opinion, were it not for political leaders in this country today, for political purposes, trying to get the vote one from the other of a certain group of people, we would not have this trouble today. That is my honest opinion about it, and I do not want to be offensive to anyone at all, and as I say, I would like to be diplomatic.

I am cognizant of the fact that possibly there have been in recent months some very undiplomatic diplomats.

The CHAIRMAN. I admit that the demagogues on both sides have created lots of this trouble.

Mr. CALLISON. I thoroughly agree with you on that, sir.

Now, let us go down the line and I want to call to your attention some of the cases, as I said, in which I have been involved. I do not

want you to look at it as if I am trying to picture something I have done. Since early boyhood, the age of 14 years, I learned something of mob violence. In my community there was a race riot precipitated by a group of Negroes congregated by certain white people at an election box in 1898.

They undertook to wrest by force from the managers of that polling precinct, the election box. In that incident one of the election managers was slain. That started what is known now, and what has been known, as the Phoenix riot.

I call your attention to this to show you that the people generally, the leading people tried at that time to check this question of mob violence. It so happened that during that time, when there were certain leaders in the community heading groups of other men for the sole purpose of trying to restrain and trying to keep them in line, and trying to keep any real damage from being done, my father and his own family in the heat of the excitement, were jeopardized in their lives. Their lives were in jeopardy.

From that day on, simply because my own father had undertaken to guide and direct and to dissuade some of the group from some of the things they wanted to do, from that day on I determined that mob violence should be crushed in the State of South Carolina.

I came to manhood and to the bar and I became prosecuting attorney of my judicial circuit and I met the issue face to face. I am telling you this because I think that the legislation proposed along this line is unnecessary and unwise.

During that term of office, a group of three white men lured into my county a taxi driver and stabbed him in the heart and threw his body by the roadside and went toward the State of Florida with his taxi. One of them after running into trouble in Georgia, conceived the idea that he could escape by reporting what had happened and telling on the others.

When the people found out what had happened, that spirit to get them, and to go after them instantaneously arose. I was on the scene and I maneuvered to avoid a lynching. I did avoid a lynching by keeping the prisoners shifted from one position to another. I finally brought them to trial. The 3 white men were convicted and the 3 white men were executed.

Following that, 5 Negroes were roving the countryside, robbing country stores and filling stations and committing all kinds of acts of criminal depredation. It wound up by them entering a country store, where they met resistance from the proprietor. One of them went back outside of the sleeping quarters and shot down the owner and operator of that business.

His little children were sitting on the floor with their feet in the basin preparing for bed.

Now, I heard that report over the radio and I went immediately to the scene. If your eye had seen what I saw, it took fortitute to stand up and say to the crowd, "This thing shan't be done. If the perpetrators of this crime are ever caught, they shall be legally tried."

Finally they were caught in Bluefield, W. Va., and returned to South Carolina. While they were being returned, I made it my business to say on the highway to keep in touch with the officers returning them and observing the movements of the people in order to see that those men were protected and gotten into prison.

We succeeded. We brought them to trial and convicted them and all five were executed. There was no lack of interest in enforcing the law regardless of the individuals involved.

Again, in one of the counties which had had some reputation for being violent, some white men slew a Negro under conditions that some people thought was a lynching. I happened to get a hold of the names of seven of those parties, and I prosecuted them in the courts and from that day to now there hasn't been another such incident in that particular judicial circuit.

We have gone into the courts and prosecuted officers of the law for exercising too much force in taking the life of a drunken Negro while trying to arrest him. As I say, that particular legislation that you are talking about, the antilynching features of it, has no place here. We are doing a discredit to our whole Government by advertising to the world that we need such.

Let me say further that eliminating the lynching issue in the South has not been as a result of Federal action. It has been the result of State action. I want you to help us keep up that good work. Will you not let us alone and will you not let us tell the people that we are going to enforce the law?

Back in 1938, the late and able Senator Borah made a speech in the United States Senate on what was then an antilynching bill in the Congress in which he had this to say, and if you let me read it I will quote it because it is so applicable.

It is not in the interest of national unity to stir old embers, to arouse old fears, to lacerate old wounds, to again, after all these years, brand the southern people as incapable or unwilling to deal with the question of human life. This bill is not in the interest of that good feeling between the two races so essential to the welfare of the colored people.

Nations are not held together merely by constitutions and laws. They are held together by mutual respect, by mutual confidence, by toleration for conditions in different parts of the country, by confidence that the people in different parts of the country will solve their problems; and that is just as essential today as it was in 1865 or 1870.

I state it is just as essential today as it was in 1938 when this speech was made.

We are solving our problems. You cannot tell us how to solve them. You are not acquainted with the thinking of the people. You are not acquainted with the conduct and the habits of the people in my section anymore than I am with those in yours, which means to me that the States should be left alone to handle their internal affairs as was contemplated by the founders of this Government which has produced the greatest nation and the greatest wealth in all of history. Continuing this quotation:

In the beginning, Mr. President, I reject the pending measure as fundamentally not in the interest of the white people of the South——

The CHAIRMAN. You have consumed 30 minutes and I do not want to hasten you, but I do not want to have these gentlemen who are here from distant points to return and we must conclude at 4:30.

Mr. CALLISON. All right, sir, we will try to accommodate you on this.

Following that, gentlemen, there is a list of lynchings from 1937 down to 1954. In the last 3 years there has not been a lynching. Now, you have your poll-tax question. South Carolina has eliminated the

poll tax as a prerequisite to voting; there is no use to discuss that. It has no place, as I see it, in any legislation at all.

Then, there is a question of slavery, peonage, and involuntary servitude. All of that is gone. It is history. It has been done by the States and not by the Federal Government.

Now, if your honors please, and I am delighted to address you as "your honors," but, Mr. Chairman, coming down to the modern day, South Carolina has had no difficulty. It has no question or quarrel with the Federal authorities. Some weeks ago I lent the FBI one of my best men to conduct civil-rights schools in my State. I have this:

> We have now completed the series of civil-rights schools in South Carolina referred to in my letter of April 12, 1956.
>
> These 5 sessions were attended by 472 law-enforcement officers representing 63 separate agencies. Such attendance was due in a large part, I am sure, to the participation of Mr Verner. Comments which I heard were uniformly to the effect his discussion had been helpful to the attending officers and that your office had thus rendered a fine service to the law-enforcement profession in South Carolina.

Now we do not want that happy relationship, that splendid relationship disturbed by unnecessary Federal legislation. The States can best do those things themselves.

I have seen enough in my State to tell you that the agitation and discussion of civil rights and the part the Federal Government is playing under the guise of enforcing civil rights, is making it most difficult for the States to enforce their own laws.

As an example, I relate one case occurring in my State in the recent past. A drunken Negro, riding a crowded bus, was disorderly and disturbing the driver of the bus, jeopardizing the lives of approximately 50 people. His conduct was so rough that the bus driver stopped at the first incorporated community, called for police aid to protect the passengers on the bus.

The local police officer, in making an arrest for disorderly conduct, had to use force to subdue the enraged, drunken Negro and, in accomplishing the arrest, the drunken man's eye was struck, resulting in the losing of one eye.

This story was publicized; the papers in the northern part of the country carried great headlines about it. The Federal Government entered the case and prosecuted the officer for violating the civil rights of the drunk, posting the trail in the Federal courts. He was acquitted, and properly so, still he was put to the expense, annoyance, and intimidation by an unfair and an unjust trial.

With this situation, under the present law, I cannot advise an enforcement officer what to do with certain cases. No one seems to have any civil rights except the criminal, the Communist and members of certain minority groups. The great masses of the people have to suffer at the hands of such individuals lest they be brought into the court, charged with violaitng the civil rights of such parties.

As suggested by the chairman, and after having referred to numerous other proposed bills, I now refer to bill H. R. 1151. This bill, as expressed in its title, proposes to provide for an additional Assistant Attorney General, to establish a bipartisan Commission on Civil Rights in the executive branch of the Government, to provide means for further protecting the right to vote, to strengthen the civil rights statutes, and so forth.

I am registering no particular criticism of the creation of a bipartisan commission to study the subject of civil rights and when that study has been completed, such commission will go out of existence.

I do not think however, it would be advisable for such a commission to accept and utilize services of volunteers, as provided for in subsection (b) of section 104. Any person who would volunteer his services on such a commission would do so because of some preconceived ideas or prejudices which he would like to vindicate. Such a commission, if created, should be selected with the greatest care and properly compensated for such services.

As to the proposal for an additional Assistant Attorney General, I do not feel that I am in a position to state whether the Attorney General's Office may need one or a dozen additional assistants, but no one assistant should be created for the sole purpose of administering the civil-rights laws.

The real purpose of this bill appears to be not so much to create additional civil rights laws, but to provide other and different remedies for the enforcement of such laws. To accomplish this purpose your bill proposes to amend section 1985 of title 42 of United States Revised Statutes, by simply adding two additional sections, known as 4th and 5th sections.

These two sections are, in my opinion, radical and dangerous to all the rights guaranteed by the Constitution of the United States. Sections 1, 2, and 3 of section 1985, title 42, provide punishment for the violation of the rights described in those sections. Article III, section 2, clause 3 of the United States Constitution declares:

> The trial of all crimes, except in cases of impeachment shall be by jury * * *

Section 4 of the bill authorizes the Attorney General to institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding or preventive relief, including application for a permanent or temporary injunction. The section further provides that the United States shall be liable for the costs of such a proceeding.

By this innocent looking provision the right of trial by jury of a person charged with a criminal offense may be denied. The dangers in such procedure to the liberty of American citizens far surpasses any conceivable good which may be accomplished.

When the Federal Government, through the Attorney General and in the name of the United States, can come into the State and institute a proceeding for an individual whereby a person may be restrained and subjected to comtempt of court and incarcerated without a jury trial, the very fundamentals of constitutional government are gone.

I have tried thus far to indicate the complete lack of need for additional civil-rights legislation at this time. I think the difficulty we are having with this whole subject is due to misunderstanding or lack of information on the part of the people of one section of this country as to the real conditions facing the people of other sections of the country.

With the vast expanses of the United States, the varied climate, the different types of industry peculiar to the several sections of the country and the many different nationalities represented in our population, there is no one pattern which can be set by the Congress to fit the needs and the varying conditions of the different areas of this country.

This being true, no legislation, whether it be designated as civil-rights legislation or some other type, can be made to fit every pattern of life, and the State should be allowed the greatest latitude in governing its own internal affairs, without interference on the part of the centralized government.

As requested by the Chairman, I will call attention to H. R. 2145, introduced by the Chairman of this committee, which bears the simple title, "To Provide Means of Further Securing and Protecting the Civil Rights of Persons Within the Jurisdiction of the United States."

The title to this bill alone indicates that it is not the purpose of the bill to create any new civil rights, but to further secure to the people the civil rights which they now have under former legislation and under the Constitution.

Let us examine this proposed bill in the light of the main purpose to which it is directed and see that if the purpose is accomplished, whether or not it will not, in itself, strike down the most important right the American people have under our Constitution, that is, the right to trial by jury. I hope to say more on this point later.

Briefly, let us undertake to analyze H. R. 2145. It will be noted that section 2 of the bill is purely argumentative and normally would have no place in the bill except perhaps by way of preamble and before the enacting words. My experience with drafting legislation is that when a Member wishes to pass some act and is doubtful about its merits and its passage, he will undertake to argue it into existence by way of a preamble. This seems to be the purpose of section 2 of this bill.

Without impugning the good faith of its author, I violently disagree with some of the allegations contained in this section. The purposes to be accomplished, as set out in section 2 of the bill, under subsection C, will not insure a more complete enjoyment of all persons of civil rights, will not safeguard to the States, the Territories and the United States a republican form of government, will not promote universal respect for observance of human rights, but, on the contrary, will obstruct and deny to the great majority of the American people the rights, privileges, and freedoms guaranteed by the Constitution itself, in order to satisfy and appease certain minority groups in their efforts to destroy the domestic tranquility and the pursuit of happiness on the part of 150 million American citizens.

The proposed act would create a Commission on Civil Rights in the Executive Branch of the Government. When we consider the substantive legislation on the subject of civil rights and the procedure being followed in the courts to enforce civil rights, there would appear to be absolutely no need for any additional commission for such purpose.

Such a commission as is proposed would be constant irritant and impediment on the part of the States to enforce civil rights within their borders. In other words, such a commission can further aggravate a highly explosive situation and result in the breakdown of law enforcement by the States.

Part 3 of the bill creates the joint Congressional Committee on Civil Rights. I have no special comment to make on this provision as a bipartisan congressional committee for the purpose of studying any subject can be useful.

Part 1 of title 2 declares to be "Amendments and Supplements to Existing Civil Rights Statutes" repeats much of the current statutory

law on this subject and only deals with remedial procedure looking toward the enforcement of the civil-rights law.

Title 2 of the bill, beginning at page 10 of the printed bill purports to amend certain sections of title 18 of the United States Code by adding a new remedy for the enforcement of the rights set out in title 18.

The law as it now stands provides a constitutional method of trial for persons charged with criminal offenses. The proposed amendment provides that such person may have a civil action, a suit in equity, or other procedure for damages or preventive relief. It further provides that actions may be brought in the district courts without regard to the sum or amount involved.

The objection to this provision is what appears to be an effort to make it possible to handle the whole program by way of injunction or preventive relief, contrary to accepted judicial procedure, with the possibility of denying an individual of his constitutional right of trial by jury.

If you wish to have yourself, your brother, your friends or your neighbors denied the right of jury trial if charged with a criminal offense, then you should pass the proposed legislation and forever thereafter regret it.

I cannot bring myself to believe that there is any reason why the United States Government, at its own expense and active whim of a disgruntled individual, may bring proceedings against a helpless individual unable financially to defend himself, and allow him to be railroaded into prison without the constitutional right to jury trial.

We have some examples of this type of action pending in this country today where a district judge, far removed from the alleged trouble, contemplates wholesale nonjury trials of individuals who have been accused by violating an order of the court.

In such cases where acts are committed without the presence of the court, a trial growing out of such acts can only be had upon testimony in support of the allegations and questions of fact to be determined which, under the Constitution, must be by a jury.

I do not question the right of any court to proceed against a person who violates an order of the court when he is a party to and properly before such court, but a blanket order of injunction against the entire city or county should never be the basis of a criminal prosecution at the instance of some prejudiced person, and have the liberty of the citizen jeopardized without the constitutional right of trial by jury.

When these civil rights bills are analyzed, but one conclusion can be reached, and that is, a determination on the part of some people, under the guise of protecting the civil rights of minorities, to jeopardize the civil rights of the great majority. If the Constitution is to be amended so as to eliminate jury trials, it should be amended in the manner prescribed for such purpose and not by congressional act or judicial decree.

Another objection to bill 1151 is to be found in the proposed fifth section of 42 U. S. C. 1985, which would give the district courts jurisdiction over all proceedings instituted pursuant to the act, without regard to whether the parties aggrieved shall have exhausted all administrative or other remedies that may be provided by law.

What can be the purpose of such an amendment except to deny to the several States the right to enact their own laws and provide the remedies, administrative and otherwise, as to how such laws shall be administered?

Is not this proposed legislation designed for one purpose, and one purpose only, and that is to take from the States the rights which they have reserved to themselves in adopting the Constitution, to govern themselves and to protect their own citizens from outside interference and oppression, except in such cases where specific authority has been delegated to the Federal Government.

The CHAIRMAN. I thank you very much.

I think we have a statement from one of our colleagues, the Honorable Peter W. Rodino, Jr., of New Jersey, at this time.

STATEMENT OF THE HONORABLE PETER W. RODINO, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. RODINO. Mr. Chairman, I should like to speak of the bill which I have introduced dealing with the matter of civil rights. Substantially, it is quite similar to the proposals recurringly made by President Eisenhower and to the civil rights bill which the House passed last July 23 (H. R. 627), but which was not acted upon by the Senate.

All of these proposed measures have one fundamental aim: to promote by means of intelligent, measured legislation the cause of civil rights in the United States.

That further legislation in this field is needed—vitally needed—has long been apparent. While the frontiers of democracy have been vastly extended over the past 20 years, and meticulously extended over the past 3½ or 4 years, there remain certain aspects of civil rights which are largely untouchable except through the medium of Federal legislation.

The Federal courts and many of our State legislatures have led us admirably far along the path of promoting civil rights—to a point, I think, where Federal legislation is doubly necessary if progress is measurably to continue at a desirable rate. This fact President Eisenhower soundly appreciated in his 1956 state of the Union message when he noted:

> We are proud of the progress our people have made in the field of civil rights. In executive branch operations throughout the Nation, elimination of discrimination and segregation is all but completed. Every citizen now has the opportunity to fit himself for and to hold a position of responsibility in the service of his country.
>
> The stature of our leadership in the free world has increased through the past 3 years because we have made more progress than ever before in a similar period to assure our citizens equality in justice, in opportunity, and in civil rights. We must expand this effort on every front. We must strive to have every person judged and measured by what he is, rather than by his color, race, or religion.

No, the job is not completed. Politically, untold thousands of otherwise qualified Negro citizens in the South are still prevented from exercising the foremost tenet of democracy, the right to vote. Economically, discrimination on grounds of race or religion remains one of our most costly indulgences.

One student of public affairs, Mr. Elmo Roper, not long ago estimated that the waste in manpower, morale, and productivity resulting

from discrimination and its effects costs American industry $30 billion annually. In other fields, too, such as housing and health, great inequities result, directly or indirectly, from the failure to recognize that all our citizens ought to have access to a common fund of civil rights.

The measures proposed to correct present injustices and to further equal opportunity for all recognize at one and the same time the need for positive, resolute action and the desirability of approaching these thorny problems with the conviction that steady enlightenment will do more good, in the long run, than abrupt violence.

Of great value, in this connection, would be the establishment of a bipartisan Civil Rights Commission, whose mission it would be to examine the operation of existing laws in this field; investigate allegations of discrimination due to color, race, religion, national origin, or sex; and study information concerning the denial of equal protection of the laws under the Constitution.

The bipartisan character of the Commission is significant, for it emphasizes that, in the deepest sense, the matter of civil rights is not partisan, but moral in kind. It should be noted that the Commission would not be of the "regulatory" or lawmaking type; armed with no more than the power of subpena, its charter of operation would but include investigation and advice.

But in the carrying out of its duties, at least two concomitant benefits would result. First, because it will not be equipped to investigate every instance, perhaps every area, where possible discrimination obtains, it will quite naturally establish certain priorities, and will point to certain areas of grievance deemed to be in direct need of study and improvement. In this way the concentration of the Nation will be most resourcefully directed.

Second, the mere fact that the Commission exists and operates will encourage the spirit of discussion and conciliation—qualities without which democracy cannot long endure, qualities which free, thinking men find indispensable to progress.

Other features of the proposed civil rights bill are, I think, equally meritorious. While the operations of a commission would emphasize the importance of recognizing regional differences and stress the value of study and restraint, the proposal to set up within the Justice Department a new Civil Rights Division, headed by an Assistant Attorney General, would make it altogether clear that we do not intend to regress from the gains already made.

In line with this proposed organizational change, two changes which would facilitate the task of law enforcement seem equally desirable. In the first place, the Government should be granted the opportunity to employ civil procedures to protect civil rights. Under present law, the Government can act only on the claim that criminal conspiracy has been employed to deprive a person of a civil right. The proposed improvement, which would place the Government on equal footing with a private litigant, would seem mandatory, especially when we realize that the very persons deprived of rights are as often as not the less fortunate, the persons lacking the wherewithal to undertake legal action.

Secondly, in pursuit of sound law enforcement, the vague, fuzzy provisions which protect the right of all citizens, otherwise qualified

by law, to vote in Federal elections, must be made more specific and attached with sanctions more severe. Free and full popular suffrage is the most realistic method yet discovered for protecting and enhancing all of our civil rights.

The history of America has been the history of the extension and proliferation of human freedom. Many of our gains have been made because we have had the courage to apply the inscription engraved over the portal of the Supreme Court Building, "Equal Justice Under Law."

The proposals here under consideration are in perfect accordance with that principle; they are proposals to confront a most complex, a most challenging compound of problems with a truly American compound of remedies: thorough examination of the facts, careful deliberation, and resolute enforcement of laws already devised to advance the cause of human freedom.

The CHAIRMAN. Thank you very much, Mr. Rodino.

We will now hear from Mr. Graydon, of South Carolina.

Mr. ASHMORE. May I say just a word in introducing Mr. Graydon?

Mr. Chairman, the Legislature of South Carolina is in session, and they have very important matters under consideration, particularly an appropriation bill which was just introduced this week. It carries a lot of money for the increase of teachers' pay, and the Governor and others there who would have liked to come here for this meeting today did not feel it advisable to leave the legislation.

The Governor of South Carolina has designated as his spokesman here today one of the outstanding lawyers, not only in South Carolina, but throughout the Southland, and if his ability and capabilities and experience and knowledge were known he would be recognized as such throughout the United States.

Mr. C. T. Graydon has probably tried as many cases, both civil and criminal, as any lawyer in the country. He has participated in more than 500 capital cases. In many of those, or in a number of those, he was assisting the State as a prosecuting officer, and in 21 instances of that kind the defendants received the supreme sentence of electrocution.

Out of the more than 450 that he has defended in that type of case, none of those that he represented has ever received the supreme penalty. That is just to give you an idea of what type of lawyer he is.

The CHAIRMAN. If I want a lawyer, I want to get him in South Carolina.

Mr. ASHMORE. He is not only a great lawyer, he is a great student of history and of the heritage of the things that we hold so dear, not only in the Southland, but as American citizens in general.

Mr. Graydon is a great philosopher, and a great student of history, and a great constitutional lawyer, and, I know, a great student of humanity, and will be able to give you something that I think all of us would like to hear, and, if you have any questions, I believe he can answer those, too.

STATEMENT OF C. T. GRAYDON, ESQ., A MEMBER OF THE BAR OF THE STATE OF SOUTH CAROLINA

Mr. GRAYDON. I feel somewhat like the Negro at a funeral, where the mother and the child went to the funeral, and the preacher got up

and praised the dead man greatly. Finally, the mother turned to the child and said, "Joe, go up and see if that is your papa there in that coffin, because they sure ain't describing him right from the pulpit."

I feel that I should tell you what I am. I am ex-president of the South Carolina Bar Association, and ex-member of the South Carolina Supreme Court by appointment, and ex-member of the State circuit court, and ex-newspaper reporter, and ex-schoolteacher, and pretty near everything I am is "ex."

I say I am a lawyer by profession, and a Democrat by tradition and birth, and Episcopalian by choice, and I am a notary public without a seal.

I am an Episcopalian because it is the mildest form of religion. It keeps me from catching the real thing. It is like a vaccination for small pox. I do not intend to offend anyone, and if I do I will apologize prior to the time I offend them. I do not intend to recriminate anybody, but I have heard a lot about good intentions in this meeting today. I want to say to you, Mr. Chairman, Gehenna is paved with good intentions, and unfortunately it has no asbestos in it, and I think that you will understand what I am talking about.

Mr. GRAYDON. I want to say that I first approached this thing from a constitutional viewpoint, and I found out to my utter amazement that the original Founding Fathers did not give the Supreme Court the right to declare an act unconstitutional. It denied that right 11 times. Mr. Marshall came along, and, in the case of *Marbury* v. *Madison*, he went down the road with it.

I am not saying it is bad. I think probably it is good. But it was not in the original intention.

I want to say to you further that Mr. Jefferson found out, and in Virginia Mr. Jefferson still lives—they say Mr. Jefferson "says," and they never say Mr. Jefferson "wrote," they say he "writes." It is like he is around the corner drinking a glass of beer. It is a great living monument to their great civilization there.

Mr. Jefferson was so worried about the Constitution until he put in the first 10 amendments, which are the Bill of Rights. Those first 10 amendments are the fundamental guaranties of the people of this country.

Now the point I make here is that if the 14th amendment continues to be interpreted by the Court in an expanding fashion, what is going to become of the first 10 amendments? I do not know. Everything that comes along, when they cannot find any other cap to fit it, they pull the 14th amendment off and put it on their head. That is it, they say.

I want to know where we are going to stop. We are encroaching upon the first 10 amendments, particularly the 10th and the 5th and the others, and where are we going to stop? I don't know. But as the trend is now, there seems to be some lack of security in those 10 amendments. I think that is pretty bad.

I want to go further and say that the question of local self-government has been in the minds of the English-speaking people for over 1,000 years. We always speak of John in the Magna Carta. We forget Henry first gave another bill of rights. John simply was forced to reiterate them.

In paragraph 16 of that bill of rights. they say to the individual London citizen that there is reserved the right to them to live according to their laws. usages, and customs heretofore existing.

That was the first announcement in writing of the great principle of local self-government.

Of course, when I was a little boy I thought Mr. Lincoln was some kind of a devil that had horns and hoofs, and I found later that he was a very fine man. I am a great admirer of his. I don't think that I can offend the chairman or any of the members of the committee to quote what he said about that issue, and said it in his first inaugural address.

With your permission, I will read you what Mr. Lincoln said, after Mr. Lincoln had denounced the Dred Scott decision and after he had said in effect he would not obey the Dred Scott decision, and after Mr. Lincoln had said that the Dred Scott decision would be overruled by whatever means became necessary.

I have that all in this book, and if any of you gentlemen have a lot of time, which I don't think you have, I would be glad to let you have it. But I am going to read one part.

The South was terribly worried about the encroachment of the North on what they called their rights. And what were their rights? Mr. Lincoln was to set at rest that terrible situation in his inaugural, and he said this:

> Those who nominated me and elected me did so with full knowledge that I made this and many similar declarations, and had never recanted them, and, more than this, they placed it in the platform of the Republican Party for my acceptance and as a law unto themselves, and to me the clear and emphatic resolution which I now read:
>
> "*Resolved*, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control in its own institutions, according to its own judgment exclusively is essential to that balance of power on which the perfection and endurance of our political fabric depend, and we denounce the lawless invasion by armed force or otherwise of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

That is pretty definite. Of course we in the South have come to believe that if Mr. Lincoln had lived and had not been killed by a neurotic, psychopathic, alcoholic, crazy man, we probably would have not suffered so much in reconstruction.

I say if you are going back to the principles of Lincoln and Jefferson, Lincoln simply reiterated that which Jefferson had said 100 times, as to the integrity and rights of the States.

I think that that should go to the minds of you and members of the committee, that it is a fundamental situation which you are dealing with.

I want to pass on a little further, and I am not a very good lawyer, and I don't know much about the Constitution. In my State, one old friend of mine came to me the other day and said, "I hear the Government is sick." And I said, "I don't know anything about the Government being sick. What makes you think that?" And he said, "I read in the paper where the Constitution was falling apart. I'm afraid there is something wrong up there."

I want to go a little further and say on this question of law that in the Reconstruction Acts with which I am somewhat familiar, those acts were attempted to be enforced, and there was a total failure to enforce them in our country. They were finally abandoned, and

South Carolina was given back its rights, and having been given back its rights, South Carolina grew, prospered, and became patriotic. I do not think that I have to announce to you that patriotism is an ever expanding thing. It begins at home, and it goes to the county, and to the State, and to the Nation. No stronger can we be in the Nation in patriotism than we are in love of our home.

I am not offering this as an exhibit, but South Carolina has sealed with blood the covenant to be loyal to this country on the battlefields all over the world, and one of the men here with me today bears evidence, mute evidence of that consecration and that dedication to our great Nation.

I want to say to you, however, I am somewhat like Webster, although I haven't had a drink, when he said, "I am first, last, and all of the time an American." That is what I am.

But I cannot let you destroy my State or cripple my State or harass my State without raising my voice in protest.

Now, Mr. Chairman, I want to go a little bit further. One of the gentlemen read the law of suffrage in the State. We have practically that same law in South Carolina. We do not demand a poll tax and do not require it. Except I was very much struck that he had in there that everybody should vote but idiots. In South Carolina we don't enforce that provision. Idiots vote along with the others, and we don't raise any question about it, and I expect they do in Mississippi, too.

He also said that people would go out and buy votes. Well, they do that everywhere. Our problem down there is to keep them bought when we buy them. It goes that one of the northern invaders, or carpetbaggers, became a very prominent man in South Carolina, and he died with the name Honest John, because when you bought him he stayed bought. He was honest to the extent that if you would buy him he would stay that way.

I want to say another thing along that line. Another one of the speakers talked about the relations between the Negro and the white race—and if I say colored instead of Negro, please forgive me, because down there we have gotten a little conscious about this question of calling them such a name, which should not be done. It has gotten so bad that when you go to a cocktail party and ask for a drink you no longer ask for a "jigger." You say, "Will you please give me a 'jegro' of liquor." The word "jigger" is now "jegro," and we are trying to keep in good spirits with them.

I want to say that I love the Negro race. My relations with them have always been most kindly and we are progressing rapidly toward the solution of this problem which you gentlemen are now considering. It is a thing that cannot be done overnight. You cannot change the civilization of a people with a paint brush or a new set of plumbing. You have to change it by gradual methods. Of course, this is no little thing. It is like a man told me when they were about to have some trouble in a county, and people were walking around, not about any racial business, but about some business of their own, and I was trying to get over there to straighten it out, and he said, "You know, there's a little trouble down here." And I said, "That's just like saying a woman is a little pregnant. There is plenty of trouble down here, and it will come right on through, so don't worry about that."

So this trouble we have in South Carolina is increasing and the relationship of the races is being detrimentally affected by it.

I want to cite you two or three things that we have done in South Carolina. We have not had near as many mob-violence cases in South Carolina as we have in Detroit, Chicago, and New York. Yet whenever we have anything that happens down there it is blazoned over the papers.

We have abolished lynching, and we have not had a lynching in many, many years in our State.

We have abolished the poll tax. We have abolished the Ku Klux Klan by a statute of law in our State.

Someone spoke of jury duty. Why, in my court last week, in Richland County, out of a panel of 36 men, 9 men were Negroes. Nine men served on those juries, and nine men made good jurors. On our grand jury we have Negroes. We don't apologize for it. They are entitled to be there, and we put them there.

Our airplane travel, we have no segregation laws about it. We have had no incidents about it. People compliment it. It is moving on. I do not think that we will ever have trouble about that.

In my county we have a public library. What for, I never have found out, but they have it just the same. We have an uptown branch and a branch out in the colored section. We built the nice new library about 4 years ago, and the Negroes very properly came and said, "We want the right to use that central library," and the board immediately wrote them a letter and said, "It has never been denied you and never will."

And yet I am informed that 500 people of the Negro race go to the Negro library, to about 5 that come to the white library. In fact, the problem has settled itself, and there is no friction about it, and there is no trouble about it. It is becoming gradually accepted by everyone with no friction from anyone.

I am citing those instances to prove to you that we are trying to do something and we are doing something. But we just want you to leave us alone. We just want you to take your hands off of us, and see if we can't solve the problem within our own framework of our legislation. We may not do it, but I think that we probably will.

Now I am coming on a little bit further, and I do not want you gentlemen to get the wrong idea. I am not compromising my position.

I am somewhat like the old legislator in our State that was very intelligent, but very ignorant. When they announced that they were going to take up a bill the next day, a bill that gave the right to anyone to kill a rabid dog on sight, this old man got up and said, "Mr. Speaker, I am against it. I am against it now and I am against it tomorrow, and I am against it forever."

And he said, "When you kill a poor rabid dog, you just ruin him, and you aren't going to do it."

So I am against this thing, as you have probably learned by this time, and if not, I am sorry.

I say that we are now making more progress, and in *Plessy* v. *Ferguson*—and I do not know where you find it; and I presume that you know about it—

I have argued cases before courts and presumed they knew the law, and I found out I was terribly mistaken. But I am going to trust you to remember Plessy against Ferguson, a transportation case, in which the Supreme Court of our country laid down the

separate but equal doctrine which stood unchallenged for about 50 years.

Then we got a Governor, Governor Byrnes, a man whom you all know. He came down there, and relying on the integrity of that decision and the solidity of that decision, Mr. Byrnes put millions of dollars worth of bonds on our State and built the finest schools in the State, which are now operated and implemented by the Negroes.

I want to tell you another thing here. Why don't you try to help them in the churches? All of the churches have thrown their arms wide open, and we have not had one man come in. They want their own government, and they want their own bishops, and their own elders, and their own deacons. They want to run their business in accordance with what they think is right and best for them.

But, as I said, I just thought of this on my feet. Why do you not integrate the Indians? They are stuck off here on reservations, in separate schools, and nobody has thought about those poor devils. We took the land away from them. Nobody said they have to go to white schools. There has been nothing said about them. You may say this bill includes them, and I think it does, and I think it includes everybody. That is what is bothering me.

But, as I say, we want to be left alone. I have said that once, and I have said it twice, and I will say it on and on as long as I talk.

Another thing I wish to say is that, as a result of Mr. Byrne's program, we have spent about $100 million on schools, the majority of it on Negro schools.

Another problem you are going to face, and I hope you gentlemen will realize when I say it is not any effort to frighten you, because I find Members of Congress just don't scare—you have 7,500 Negro teachers in our State. I believe honestly that if the same test is put to all of the teachers in the State, the large majority of them will be put out of work. I do not think that they can make the grade.

We know as a matter of study that the Negro child is 2½ years behind the white child in education. You say we caused that. Maybe I did. But you sold him to me. Maybe that caused it. And you gave me the slaves. The cradle of Liberty Hall up in Boston was mixed up in it finally. An old man named Girard up in Philadelphia was mixed up in it. And you sold us these poor benighted people that are now the subject of so much consideration in our country.

I want to say further that you can prove anything by statistics. There are three kinds of liars in the world: Just a plain liar—he just tells a lie and moves on.

The second kind is a liar with a curse word in it which I will not mention—he tells a lie and swears he can prove it.

And then a statistical liar comes along and tells a lie and swears to it, and swears he can prove it. And, by golly, he does prove it—by statistics.

Let us see where they come from, who got them, and what the purpose of them was.

I am awfully glad I do not have to defend myself from the communistic angle. Fortunately he joined your team and not mine, and so you will have to call the signals for them, and not me. I do not want them, and I have nothing to do with them, and I know you don't want anything with them, and so I am not going to berate them, because in this country that is another terrible thing that has hap-

pened. Whenever a man gets in a little disfavor and they want to completely destroy him, you just say he is mixed up with the Communist Party. That is a terrible thing. It robs a man of his character, of his standing, and of his position, and it deprives him of every right he has got before God and man. I say I am against it.

I am not going to liken the Supreme Court to Hitler. I am not going to liken it to Stalin. I am not going to liken it to Mussolini or any of those people. Our Court, I think, tries as best they can to follow the law as they understand it. I think they try to do it, and I think that they are honest. I am not going to try to impeach them. Georgia can do that if they want to. But that is not my idea of the way to approach it. It is not going to help anybody to do anything in that fashion. It is not going to help anybody or berate anybody, to link people on other causes and bring them into disrepute in a matter so vital as this, and of so much importance to you and to me and to every citizen of the United States.

I want to say to you that anything that I have said during this entire speech I hope I have offended no one. I certainly did not intend to offend anyone.

I agree with my friend, Mr. Celler, about the Semitic race. We have an idea whenever we call a person a Jew, or a Semite, that that means that little group of people which should be called the Hebrews, because they are the people that came from across the river that formed the great monotheistic God that we worship.

You may not know it, and if you don't, I will tell you, that everyone in the sound of my voice is a Jew, because every one of us worship one God. We are not Hebrews, and we do not follow the Hebrew tradition, and we do not follow the Talmud, and those various writings of theirs, but we do know that there are Semitic people—just like the Arabs are in many instances.

I want to say further to you that a bibbeal argument could be made very strong in favor of our position, either from the Old, or from the New Testament. You are familiar with the Bible, I hope. If you are, you can allocate those various matters to yourselves as well as I can. But I am saying to you that the difference in races and the difference in customs, and the differences in approach have always been the distinguishing feature and the distinguishing thing of free people.

I think I have gotten it over to you that I am against this thing. If I have not, I want to tell you again I am against it. I am going to tell you why I am against it.

In the first place, I am against it because it is going to completely tear down the cooperative attitude of the local and the Federal officers in our community. The local officers are not going to cooperate if they are afraid that somewhere down the line they may be picked up and harassed with Federal prosecution or Federal injunction.

The CHAIRMAN. You have been so interesting that I forgot to tell you that you have consumed 30 minutes.

Mr. GRAYDON. I am going to quit right now, Mr. Celler. I appreciate your kindness, and I appreciate your saying what you did. I do not want you to think because I am using a little humor in the matter that it is a funny matter at all, because it is a very serious matter, but you know the greatest men in the world are men that have a sense of humor. Lincoln had a sense of humor. That made him a very grea

man. Although I admire and love Robert E. Lee, the only defect in his character was that he did not have that robust impelling sense of humor that made him close to people around him.

Mr. KEATING. You would go crazy around this place if you did not have a sense of humor.

Mr. GRAYDON. I think that I am crazy anyway, so I would be all right.

I want to say in summing up the matter that there is another thing we object to. It is the thing which has been so often repeated about the method of remedies in this thing. That is the giving of some little 2-by-4 whippersnapper the power to go all over the United States and summon me, and my wife, and my children, and my grandchildren——

Mr. KEATING. You are referring to the Attorney General?

Mr. GRAYDON. No; the whippersnapper that he sends around with subpenas. I would not dare to reflect on the Attorney General, because he occupies a high and mighty office. He is in charge of the law enforcement of this country, and I think he is trying to do the best job he can under the light he has.

Mr. KEATING. Presumably he would send a responsible person to serve the subpenas.

Mr. GRAYDON. That is a violent presumption. Sometimes he does not exactly figure that out and I cannot go along with you. That is another one of those things that is going to happen in the future. I do not know what he will do. I do not know who is going to be the next Attorney General and what he might do. We might not have a man that we have as much confidence in as we have had in other Attorneys General, and if anything I say is construed by you, Mr. Keating, to be a reflection on the Attorney General of this United States, I want to deny it and withdraw it.

Mr. KEATING. I did not assume that that was so.

Mr. GRAYDON. That is a violent presumption, because I have nothing against him. I haven't much in his favor, but I have nothing against him.

Of course, he does not think exactly like I do, thank God. But still, that is what I want you to know.

I want to say that the second point is we do not like that all-inclusive subpena service.

The third point is, and the most fundamental point, and I cannot help but reiterate it to you because Coca-Cola has been made famous by the continued reassertion of the "pause that refreshes." Everybody knows that slogan, and the slogan I want to leave with you, and the slogan I think that you ought to put deep in your soul and deep in your heart is this:

"We don't want the grand jury presentment and the petit jury trial to be stepped around and obviated by a series of intricate legal moves that nobody knows exactly where they start or exactly where they go to."

That is another one of our troubles.

In point of fact, we think that the only way we can figure out how to handle this thing is just to leave it alone. We will be satisfied and we hope you will, too.

Now, gentlemen, having been a witness, I am now subject to cross-examination, if anybody wants to cross-examine me, but I advise you not to do it.

Mr. KEATING. I think it is very good advice you give us, and after hearing your presentation I can understand how it is that so many of the defendants that you have prosecuted are no longer with us.

Mr. GRAYDON. I am like Mr. Mark Twain said, "The report of my great ability is somewhat exaggerated." You know he said the report of his death was exaggerated, and I feel I can paraphrase it by saying the report of my great ability is somewhat exaggerated.

The CHAIRMAN. I want the record to show that you have made a very fair and very temperate and most interesting and cogent statement. It is what we would expect from a lawyer of your exceptional ability, and you have upheld the position of your State of South Carolina, and not without some very delicate thrusts of humor which we appreciate very much.

Mr. GRAYDON. I do not mean this to apply to you because you are on my side of the fence, in politics, you understand. But if it had been Mr. Keating, I would have said, not in a spirit of anger, but a spirit of facetiousness. "Sir Hubert, praise from you is praise indeed."

Mr. KEATING. Mr. Graydon, I can assure you I echo all of the sentiments expressed by our chairman. It has been a real pleasure to listen to you, and I am sorry that I missed the very first part of your presentation.

Mr. GRAYDON. Mr. Keating, the only thing I promise you is this: I give you a novel approach, and I think it has been rather novel. There are many things I could tell you that would shock you, and they are the truth, but somewhat like the bathroom in the house—it is there, but we don't want to put it in the parlor.

Mr. KEATING. And also this praise that you have received from the members of the committee does not mean that they do not understand perfectly well that you are against these bills.

Mr. GRAYDON. I want to say in conclusion, I am against it.

Mr. CHAIRMAN. Our next witness is Mr. John Blair, assistant attorney general of the State of Florida.

STATEMENT OF JOHN BLAIR, ASSISTANT ATTORNEY GENERAL OF THE STATE OF FLORIDA

Mr. BLAIR. If it please the committee, I would first like to dispose of a typewritten statement before laying a predicate for questions by this committee relating to any activities in the State of Florida which have come up in the past, and which may be in your minds.

At the outset, I would like to express my appreciation to Chairman Celler and members of this committee for the opportunity to be present here today to discuss some of the views of Hon. Richard W. Ervin, attorney general of Florida, relating to the amended version of the civil-rights legislation now being considered by this committee for recommendation to Congress.

Before going into the proposed civil-rights legislation, the attorney general would like first to refute the statement made by Congressman Roosevelt from California to the effect that the State of Florida was not diligent in its efforts to apprehend the perpetrators of the 1951 Mims bombing incident.

The State's record in this case unequivocally discloses that Federal, State, and county officials immediately entered into an investigation which, however, later proved to be efficient, exhaustive, but yet unavailing. Mr. Robert W. Hall, FBI agent in charge in Miami at the time, and two other FBI agents, performed their duties in the usual competent manner of the FBI agents in the execution of the Federal Government's law-enforcement function.

Further evidence of this fact is contained in a letter written by Sheriff H. T. Williams, of Brevard County, Fla., the local law-enforcement officer in charge in the Mims area.

In such correspondence, Sheriff Williams in answer to a question relating to the activity of the FBI in this matter stated:

> I know that I was called to the scene of the bombing immediately, and that when I called on the FBI for help, it was forthcoming immediately. Later the FBI sent in a squad of their topnotch investigators and they stayed in the Mims area for over a month, working night and day screening, sifting, and running down every tiny clue and getting no rest. The reason I know this is because I worked with them hour to hour.

The teamwork and cooperation which existed between the various law-enforcement officers in this joint effort to apprehend and punish the perpetrators of this crime was an example worthy of emulation in other areas of the Nation.

A perusal of the files of the Florida attorney general's office will disclose further evidence reflecting the bona fide efforts of such office and the State to cooperative with law-enforcement officials and to assist in every way possible in the apprehension of the guilty person or persons in the Mims case, and for that matter in any other cases in which there might have been a violation of the State or Federal Constitution.

As a result of the incorrect statement of the Congressman from California, the attorney general considers it necessary to suggest that this committee request the FBI to testify in the Mims matter and to introduce its case record as evidence of the falsity of such statement.

Mr. KEATING. The FBI never makes their case records available.

Mr. BLAIR. Would it be possible to request Agent Wall to testify in this matter and to perhaps set the record clear? We feel it is that important. It was rather a serious charge. It is the sort of thing that appears to be prompting this type of legislation.

However, as to the main purpose of this appearance, a very cursory examination of the civil-rights measure under consideration by this committee for recommendation to Congress reflects sufficient legal and practical objections and its potential of danger to our form of government to prompt an unfavorable recommendation.

Among other things, this measure would create an appointive commission within the executive branch of the Government which would be vested with subpena and other relatively uncontrolled broad powers. By reason of being appointive and within the executive branch, the members of this Commission would be virtually free from the elective control of the people and immune from any damaging consequences flowing from their acts.

Mr. KEATING. They would be subject to confirmation by the Senate.

Mr. BLAIR. That is true. But there is no guaranty that you are going to get the proper people, and there is no restriction in the bill there to protect the rights of individuals.

Mr. KEATING. You never try to dictate to the Executive who he shall appoint to office, but the legislative control is through Senate confirmation.

Mr. BLAIR. That is true, sir. The main point here is that if such a commission is to be established we believe it should be done or consist of elected Members of Congress who are more subject to the will of the people

Mr. KEATING. The chairman's bill, which is a much stronger bill, has a provision for a joint legislative committee. Do you prefer that to a commission?

Mr. BLAIR. I will pass on neither bill, sir. I say this part is objectionable. For that reason the appointive members are not subject to the will of the peole. I do not know the merits of the other bill. That point, of course, would be overcome by the fact that they were elected members of the Commission. But this is merely the point as to the appointed membership there being relatively free from the control of the peole. That idea alone is important.

As to the merits of the bill you refer to, sir, and other aspects, I cannot speak. But as to that point, yes, if it were an elective membership then it would overcome that objection.

The only requirement established for membership in this Commission that we can see by the bill, the language of the bill, is that no more than half of the members shall come from the same political party. It is true as you just mentioned, they are subject to confirmation by the Senate, but there is nothing establishing the requirements for these people.

Mr. KEATING. That is not very unusual. This calls for 6 members, and most such bills say that not more than two-thirds or not more than 1 over the majority shall be from the same party or something of that kind. Now, this bill, in an effort to make it completely nonpartisan, provides that three members shall be from each of the major parties, which goes considerably farther than most such bills do in an effort to be fair about it.

The CHAIRMAN. However, if and when the bill passes, the President will apoint three members from both parties, but when it comes to the Democrats, he will not just appoint a Democrat, but one who voted for him The Democrats who voted for him, in my opinion, do not possess the philosophy of the Democratic Party, and it is my opinion that would be a violation of the spirit of that six-man Commission. It should be composed of three men of each party.

Mr. KEATING. Well, the three men who voted for him were just unusually intelligent members of the Democratic Party. If he should decide to select such men, I would think that he would be selecting probably outstanding men.

The CHAIRMAN. He would select men who have philosophies exactly like his own, and therefore he would be violating the very spirit and purpose of such a provision. That has been done very frequently in these appointments to commissions.

Mr. KEATING. I do not assume the chairman would want him to appoint men who were opposed to the civil-rights legislation and who had a differing philosophy from that, and he might have to if he appointed those that voted against him.

The CHAIRMAN. I do not mean that, of course. I would want him to appoint men who believe in civil rights, but since we coupled the

appointment with provisions that they must be from either party, that means that there must be at least 3 Democrats who were loyal Democrats, and whose philosophy is the philosophy of the Democratic Party and of the Democratic platform, and 3 men whose philosophy is that of the Republican Party and the Republican platform.

Mr. KEATING. He might appoint the chairman and me, for instance. We get along so well.

The CHAIRMAN. I would not mind that, because I did not vote for Eisenhower.

Mr. KEATING. I did, I am happy to say; but I do not think that philosophy of the appointee is paramount. That could be covered in the Senate confirmation anyway. The important thing is to appoint outstanding men. I would not object to his appointing Republicans that happened to vote for Stevenson, if they were outstanding men. I think he would have a hard time finding any such, but I would have no objection to it if he could find such a man in the country. I do not think that who they voted for in the last election is a matter of too much importance.

The CHAIRMAN. I think it is very important.

Mr. KEATING. I am confident that the President would appoint outstanding men of the highest ability and integrity and they would deserve to be confirmed by the Senate.

The CHAIRMAN. We are being a little premature at this point.

Mr. BLAIR. As mentioned, gentlemen, that is the only requirement established for membership, that is that half come from either party. I am conceding that there is a requirement there. How weak it may be, it is nevertheless the requirement, but it is the only requirement. There is nothing in there establishing the criteria that you just spoke of. That is, impartial, and ability to see the problem, and to look at it objectively, and that sort of thing. That is not established there.

Mr. KEATING. It is strengthened by what the chairman has said, that he would try to appoint Democrats of the philosophy of the Democratic Party, and such Democrats as have appeared before us in these hearings and testified. I assume that is what the chairman means.

Mr. BLAIR. Well, the vagueness of the language describing the Commission's duties under section 103 arouses the suspicions of a careful reader.

Among other things, the Commission has the duty of investigating allegations that certain citizens of the United States are "being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin." The term "unwarranted economic pressures" can mean almost anything. It is conceivable that a person could violate the law by restricting his business to members of his own church or race. Labor unions operating under closed-shop agreements could very conceivably be held civilly liable for damages under this proposed act. A person could be called during his peak business period to Washington to testify at his own expense, as to his social activities or any activities sounding in unwarranted economic pressures.

Gentlemen, legislation which provides penalties and powers as strong as this proposed act does, should be specific in its language.

Under section 104 of this measure, all Federal agencies would be required to cooperate fully with the Commission in the exercise of its

powers in the performance of its duties. With such power at its command, the Commission could, with impunity, violate any individual or States rights and cause irreparable harm and precipitate racial strife.

Under the same section the Commission could, when it so desired, move into any community and require under the penalty of imprisonment any person to appear and give testimony on any subject in which the Commission happened to be interested at the time. There is nothing in such section, or in the entire proposed act for that matter, establishing the criteria for such hearings.

There need not be evidence of racial strife or a civil-rights violation in the area. Mere suspicion or whim would be sufficient.

Section 121 of this measure would enlarge Federal jurisdiction by authorizing the Attorney General to compete with the private practice of law by bringing civil actions on behalf of and for the benefit of any person complaining of a civil-rights violation. The taxpayers and the United States are made liable for the costs of such proceedings. The complaining party need not pay attorney's fees and, apparently, is entitled to any money judgment free from costs.

The same section nullifies any State judicial proceedings designed and prompted by the wisdom of State legislatures to remedy proper grievances.

Mr. FOLEY. That is existing law; is it not?

Mr. BLAIR. Not necessarily.

Mr. FOLEY. Exhaustion of administrative remedies, yes, but not judicial.

Mr. BLAIR. I believe in the McDowell School case, that occurred in North Carolina, and went before the circuit court of appeals, Judge Parker held that they must exhaust all State remedies. That case was subsequently followed by the Sumnter County case which went on appeal to the United States Supreme Court, which denied certiorari, which is more or less upholding the circuit court of appeals decision that the State remedies shall be exhausted.

Apparently the author considers the State judiciary incapable of handling civil-rights legislation.

The CHAIRMAN. Just so the record may be clear, in *Lane* v. *Wilson* (307 U. S. 268), decided in 1939, the Supreme Court held that there was no requirement that the party exhaust State judicial remedies before resorting to a Federal court for relief pursuant to the Federal civil-rights statute.

Mr. BLAIR. Chairman Celler, that is one case.

Mr. FOLEY. That is a civil-rights case.

Mr. BLAIR. You can find as many cases holding otherwise.

Mr. FOLEY. Not in the Supreme Court under a civil-rights statute.

Mr. BLAIR. I have no citations at hand, but I would like to be given the opportunity to research the question.

Why was it necessary to put that amendment in there? What was the reason for it? That is that they shall not be required to exhaust State remedies. If the law so reads, it is not necessary.

The CHAIRMAN. That is not unusual, because, after all, another judicial tribunal could make a different decision, and so as to imbed it in the statute and in the fabric of the law, we pass it. Then it is impervious to judicial interpretation that might be contrary to what a previous ruling was.

Mr. BLAIR. Then I would like to repeat, if it please the committee, apparently the author considers the State judiciary as incapable of handling civil-rights legislation, and the State in capable of providing proper safeguards for individual rights.

Fortunate is the litigant who can predicate his action on a civil-rights violation. By this act he is indeed a special ward of the Federal courts.

Section 122 further clarifies the right of any complainant to recover a money judgment through the efforts of Federal agency and tax-supported attorneys. This proposed act in essence would create a tax-supported commission, a function of which would be to gather evidence for use by tax-supported attorneys in litigation brought to bankrupt an individual or group for the sole benefit of a person whose civil rights happened to be involved in the transaction giving rise to such litigation.

Neither the Constitution nor the framers thereof ever intended the Federal Government to engage in the private practice of law.

Part IV, the provision relating to interference with the right to vote, could conceivably make an employer civilly liable for damages when he only permitted a limited time off to employees to vote during an election. This would be true even if the employer were acting, as the section states, "under the color of law."

The aforementioned conclusions might not have been the intent of the author of the proposed act, but such could very conceivably result. This measure would undoubtedly encourage litigation.

Gentlemen of the committee, the State of Florida, along with its southern neighbors, is faced with many grave problems as a result of Federal judicial edicts attempting to change a way of life indulged in for over a century and which previously possessed the stamp of approval of the same judiciary.

We in the South are meeting these problems calmly and rationally. There is sufficient litigation in the courts, both Federal and State, without further encouragement. There are sufficient hecklers and irritants interfering with the State's attempts to overcome such problems without the need for further interference by a Federal investigating commission designed primarily to assist in civil litigation.

The Federal statutes presently in force and in effect are adequate to safeguard any civil rights of any individual or group that might be violated. The nature of the act proposed here will do no more than create further strife, further harassment, to a much harassed State, and waste further tax money.

This legislation would interfere with any attempts to improve race relations and would create further unrest in racial matters, would remove the power of local authorities necessary to the proper performance of their responsibilities, and would precipitate State legislation abolishing public facilities and institutions, the almost necessary ingredients of a civil-rights question. This bill would result in more harm to the Negro than any possible good it could accomplish. If a person does not fear the loss of his freedom, certainly he will not fear the loss of part of his wealth. A money judgment has never been superior to a criminal judgment in such matters. The latter is already provided; the former is mercenary and not in the best interests of the South and the Nation.

Many distinguished, capable, and learned persons in the fields of government and law have thus far appeared before this committee, and, with forceful oratory and logic, have clearly presented very cogent reasons to indicate why this legislation is not worthy of serious consideration.

I hope, too, that I have, in some small measure, added to these most valid arguments.

Gentlemen, if you are considering the welfare of the entire Nation, I sincerely urge that you do not recommend this legislation or any similar legislation favorably.

Gentlemen of the committee, those are the thoughts of the attorney general of Florida on this proposed legislation and, incidentally, they are also my thoughts. In addition, I would like to make a few remarks.

The CHAIRMAN. I want to say to the gentleman that he has consumed 30 minutes, and I am going to ask him to terminate within 5 minutes.

Mr. BLAIR. That is fine. I was going to attempt to establish my qualifications to answer any questions that the committee may choose to ask, by explaining to the committee that the Governor of Florida established a biracial advisory commission for the purpose of anticipating and overcoming any possible racial strife or inequities in the State of Florida. The biracial commission consists of a well-known—in the State of Florida—Negro educator, Dr. J. R. E. Lee, Dr. Doak Campbell, a white educator and president of the Florida State University, and Judge Fabisinski, a very noted retired justice in the State of Florida.

Gentlemen, this committee meets at least once a month, but it is active at all times. It has its feelers throughout the State of Florida. It has its people throughout the State of Florida watching for any incidents that may occur which might create racial strife.

The attorney general of Florida has assigned me to this committee, and I have been working with them for some time now.

I think I am qualified to answer any questions relating to any so-called racial strife that exists in the State of Florida and on which you would like to be clarified.

That is all I have to state, and if the committee wishes to question me, I will certainly be glad to stay here as long as the committee desires.

The CHAIRMAN. Thank you very much, Mr. Blair, for your statement.

Mr. BLAIR. I appreciate your patience.

The CHAIRMAN. Do you want to put your statement in toto in the record?

Mr. BLAIR. Fine. I will have it typed up.

REMARKS RELATING TO CIVIL RIGHTS LEGISLATION GIVEN BY ASSISTANT ATTORNEY GENERAL JOHN BLAIR, ON BEHALF OF HON. RICHARD W. ERVIN, ATTORNEY GENERAL, STATE OF FLORIDA

At the outset, I would like to express my appreciation to Chairman Celler and members of this committee for the opportunity to be present here today to discuss some of the views of the Hon. Richard W. Ervin, attorney general of Florida, relating to certain civil-rights legislation now being considered by this committee for recommendation to Congress; and the erroneous statement made by Congressman Roosevelt relating to the Mims bombing incident which occurred in 1951.

Before going into the proposed civil-rights legislation, the attorney general of Florida would like first to refute the statement made by Congressman Roosevelt from California to the effect that the State of Florida was not diligent in its efforts to apprehend the perpetrators of the 1951 Mims bombing incident.

The State's record in this case unequivocally discloses that Federal, State, and county officials immediately entered into an investigation which later proved to be efficient, exhaustive, but yet unavailing. Mr. Robert W. Wall, FBI agent in charge in Miami at the time, and two other FBI agents performed their duties in the usual competent manner of FBI agents in the execution of the Federal Government's law enforcement function. Further evidence of this fact is contained in a letter written by Sheriff H. T. Williams, of Brevard County, Fla., the local law enforcement officer in charge in the Mims area. In such correspondence, Sheriff Williams, in answer to a question relating to the activity of the FBI in this matter, stated:

"I know that I was called to the scene of the bombing immediately, and that when I called on the FBI for help, it was forthcoming immediately. Later the FBI sent in a squad of their topnotch investigators and they stayed in the Mims area for over a month, working night and day screening, sifting, running down every tiny clue and getting no rest. The reason I know this is because I worked with them hour to hour."

The teamwork and cooperation which existed between the various law enforcement officers in this joint effort to apprehend and punish the perpetrators of this crime was an example worthy of emulation in other areas of the Nation.

A perusal of the files of the Florida attorney general's office will disclose further evidence reflecting the bona fide efforts of such office, and the State, to cooperate with law enforcement officials, and to assist in every way possible, in the apprehension of the guilty person or persons in the Mims case, and for that matter, in any other cases in which there might have been a violation of the State or Federal Constitution.

As a result of the incorrect statement of the Congressman from California, the attorney general considers it necessary to suggest that this committee request the FBI to testify in the Mims matter and to introduce its case record as evidence of the falsity of such statement.

As to the main purpose of this appearance, a very cursory examination of the civil-rights measure, under consideration by this committee for recommendations to Congress, reflects sufficient legal and practical objections, and its potential of danger to our form of government, to prompt an unfavorable recommendation.

Among other things, this measure would create an appointive commission within the executive branch of the Government, which would be vested with subpena and other relatively uncontrolled broad powers. By reason of being appointive and within the executive branch, the members of this Commission would be virtually free from the elective control of the people and immune from any damaging consequences flowing from their acts.

The only requirement established for membership in this Commission is that no more than half of the members shall come from the same political party.

The vagueness of the language describing the Commission's duties under section 103 arouses the suspicions of a careful reader. Among other things, the Commission has the duty of investigating allegations that certain citizens of the United States are "being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin." The term "unwarranted economic pressures" can mean almost anything. It is conceivable that a person could violate this law by restricting his business to members of his own church or race. Labor unions operating under closed-shop agreements could very conceivably be held civilly liable for damages under this proposed act. A person could be called, during his peak business period, to Washington to testify at his own expense, as to his "social activities," or any activity sounding in "unwarranted economic pressures," Any legislation which provides penalties and powers as strong as this proposed act does should be specific in its language.

Under section 104 of this measure, all Federal agencies would be required to cooperate fully with the Commission in the exercise of its powers and the performance of its duties. With such power at its command the Commission could, with impunity, violate any individual or States right, cause irreparable harm and precipitate racial strife

Under the same section the Commission could, when it so desired, move into any community and require, under the penalty of imprisonment, any person to

appear and give testimony on any subject in which the Commission happened to be interested at the time. There is nothing in such section, or in the entire proposed act for that matter, establishing the criteria for such hearings. There need not be evidence of racial strife or a civil-rights violation in the area—mere suspicion or whim would be sufficient.

Section 121 of this measure would enlarge Federal jurisdiction by authorizing the Attorney General to compete with the private practice of law by bringing civil actions on behalf of, and for the benefit of, any person complaining of a civil rights violation. The taxpayers and the United States are made liable for the costs of such proceedings. The complaining party need not pay attorneys' fees and, apparently, is entitled to any money judgment, free from cost.

The same section nullifies any State judicial proceedings designed and prompted by the wisdom of State legislatures to remedy proper grievances. Apparently the author considers the State judiciary as incapable of handling civil rights litigation, and the States incapable of providing proper safeguards for individual rights. Fortunate is the litigant who can predicate his action on a civil rights violation. By this act he is indeed a special ward of the Federal courts.

Section 122 further clarifies the right of any complainant to recover a money judgment through the efforts of a Federal agency and tax-supported attorneys. This proposed act would, in essence, create a tax-supported commission, a function of which would be to gather evidence for use by tax-supported attorneys in litigation brought to bankrupt an individual or group for the sole benefit of a person whose civil rights happen to be involved in the transaction giving rise to such litigation. Neither the Constitution nor the framers thereof ever intended the Federal Government to engage in the private practice of law.

Part IV, the provision relating to interference with the right to vote could conceivably make an employer civilly liable for damages for permitting only a limited time off to any employee to vote during an election. This would be true even if the employer were acting as the section states, "under the color of law."

The aforementioned conclusions might not have been the intendments of the author of the proposed act, but such could very conceivably result. This measure would undoubtedly encourage litigation.

Gentlemen of the committee, the State of Florida, along with its southern neighbors, is faced with many grave problems as a result of Federal judicial edicts attempting to change a way of life indulged in for over a century, and which previously possessed the stamp of approval of the same judiciary. We in the South are meeting these problems calmly and rationally. There is sufficient litigation in the courts, both Federal and State, without further encouragement. There are sufficient hecklers and irritants interfering with the State's attempts to overcome such problems without the need for further interference by a Federal investigating commission designed primarily to assist in civil litigation.

The Federal statutes, presently in force and in effect, are adequate to safeguard any civil right of any individual or group that might be violated. The nature of the act proposed here will do no more than create further strife, further harassment to a much-harassed State, and waste further tax money.

This legislation would interfere with any attempts to improve race relations, would create further unrest in racial matters, would remove the power of local authorities necessary to the proper performance of their responsibilities, and would precipitate State legislation abolishing public facilities, the almost necessary ingredient of a civil-rights question. This bill would result in more harm to the Negro than any possible good it could accomplish.

If a person does not fear the loss of his freedom, certainly he will not fear the loss of a part of his wealth. A money judgment has never been superior to a criminal judgment in such matters. The latter is already provided. The former is mercenary and not in the best interests of the South and the Nation.

Many distinguished, capable, and learned persons in the fields of government and law have thus far appeared before this committee, and with forceful oratory and logic have clearly presented very cogent reasons to indicate why this legislation is not worthy of serious consideration. I hope, too, that I have in some small measure added to these most valid arguments.

Gentlemen, if you are considering the welfare of the entire Nation, I sincerely urge that you do not recommend this legislation, or any similar legislation, favorably.

(A short statement relating to the efforts of Florida to overcome racial problems ensued, with particular mention of the Governor's biracial advisory commission.)

The CHAIRMAN. Our last witness for today is our distinguished colleague, Mr. Armistead Selden.

STATEMENT OF HON. ARMISTEAD I. SELDEN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. SELDEN. Mr. Chairman and members of the committee, I want to thank you for the opportunity you are giving me today to express my opposition to H. R. 1151 and H. R. 2145 and other bills that declare more or less the same principles that are embodied in these two measures.

I want to apologize to you for the condition of my voice. I have been in bed for a couple of days with a bad throat, and, not realizing the hearings would continue beyond today, I got up and came in to make a statement. I trust my voice will hold up until I have finished.

Mr. Chairman, H. R. 627, which was considered by the House last year, is, as you know, Mr. Keating, an identical bill to the bill that has been reintroduced by you in this Congress.

Since there had been very little change in the membership of the committee since the last Congress, it would seem likely to me that if a bill is to be reported its contents might well be similar to Mr. Keating's present bill (H. R. 1151). For that reason I would like to confine my remarks primarily to H. R. 1151.

I want to assure you that the criticism I make of H. R. 1151, Mr. Keating, is certainly no personal criticism of you. However, in addition to being opposed to all legislation of this type, there are parts of H. R. 1151 that I believe are extremely dangerous.

Mr. KEATING. Knowing you as I do, I know our relations have always been pleasant, and I hope they will continue to be. We have our differences, but that is part of the game here.

Mr. SELDEN. I am sure our relations will continue to be pleasant.

Mr. KEATING. I might add that if your cold bothers you and if there is anything you want to add to the record in addition to your oral statement, of course, I know it will be received by the chairman.

Mr. SELDEN. Thank you very much.

Now, Mr. Chairman, the ostensible purpose of the Commission on Civil Rights, advocated in part I of H. R. 1151, is to investigate the necessity of civil-rights legislation. And yet the remainder of the bill proposes the very legislation whose need is supposed to be investigated.

Mr. KEATING. I will have to take issue with that.

It is quite possible that the investigation might disclose the need for additional provisions to assure civil rights for our citizens. Only a bare minimum is set forth in parts III and IV.

Mr. SELDEN. In other words, you are assuming then that there is a need for this legislation without an investigation.

Mr. KEATING. I assume there is a need for sections 3 and 4. There is no investigation needed to show the need for that. Whether or not there is a need beyond that is another question.

Let me illustrate.

In the past 2 or 3 Congresses I had introduced an antilynching bill. I did not do so in this session, and I think I did not in the last session. I am not certain that there is a need for that as of today. I am open minded on that.

This investigation by this Commission might go into the subject. That is just illustrative of my point.

Mr. SELDEN. I would think, however, that if an investigation of alleged complaints is to be made, it would be more normal procedure to await the verification of those complaints before remedial legislation is considered.

Mr. Chairman, the power of subpena that is given to the Commission on Civil Rights in part I of the bill is a power that I am sure all of us will agree should be jealously guarded. Yet, under the terms of H. R. 1151, as I understand it, it would be possible for only two members of this Commission on Civil Rights to issue a subpena to any person within the jurisdiction of the United States, directing that person to appear at any designated place to testify upon such matters as are deemed material by those two Commission members.

As I understand H. R. 1151 further, the proposed Commission could sit here in Washington and investigate allegations, sworn or unsworn, that certain citizens of the United States are being deprived of their right to vote or are being subjected to economic pressures, and it could require citizens of any State to travel to Washington or any other city in this country to testify regarding such allegations.

Now the question that immediately occurs here, Mr. Chairman, is what will constitute "unwarranted economic pressures" within the meaning of this legislation. Mr. Chairman, I would think that the term "unwarranted economic pressures" should be carefully clarified.

In my opinion, the power of subpena that is given this commission is extremely broad. When read in the general context of H. R. 1151 it is not difficult for me to understand why many, particularly in my section of the country, have surmised that its purpose is to enable the commission to harass officials of the State who are not in agreement with the views of constitutional authorities that are likely to be prevalent among the members of such a commission.

I think that is particularly true when membership on the commission has no geographical requirements.

Mr. KEATING. You will agree with the chairman's position that the three Democratic members who would be appointed by the President should enunciate the policy of the Democratic Party?

Mr. SELDEN. I feel that there are differences of opinion even among the members of the Democratic Party as there are differences of opinion among the members of the Republican Party on certain issues. It would seem to me, Mr. Chairman, that a commission chosen on a geographical basis to deal with the subject matter of H. R. 1151 would more nearly represent the different views on this subject than would a commission chosen on a bipartisan basis.

Mr. KEATING. I was trying to figure out just what the philosophy of the Democratic Party would be.

Mr. SELDEN. It might be difficult to definitely ascertain the philosophy of either of our two great political parties.

Mr. Chairman, part II of H. R. 1151 provides for an additional Assistant Attorney General.

While it is not so stated in the bill, I think I can presume that this additional Attorney General would be in charge of a civil-rights division in the Department of Justice.

Judging from the caseload that is handled by the present civil-rights section of the Department of Justice—and I understand that it is a very light caseload—this proposal would appear at first glance to be based on the fallacy that there is some necessity and advantage in creating more Government jobs. However, the majority report that was presented last year in connection with this legislation made it crystal clear that part II is designed so that the Federal Government can invade all of the States and subdivisions in matters relating to integration, the field of education and even interstate and intrastate matters including primary elections.

Such authority would constitute a constant threat not only to all State and local governments but virtually to every officer and agent of those governments.

Part III of H. R. 1151 is entitled "to strengthen the civil-rights statutes, and for other purposes" while part IV is "to provide means of further securing and protecting the right to vote."

First let me point to the similarity of these two provisions. They both provide that the Attorney General may institute civil proceedings on behalf of the real party in interest, and that the district courts shall have jurisdiction regardless of whether or not the aggrieved party has exhausted the State judicial or administrative remedy.

Mr. Chairman, it is rather difficult for me to believe that the great office of Attorney General of the United States should be used to provide free legal services to any one party in a civil suit, or that it should be used to secure for private individuals judgments for damages.

The Attorney General is already authorized to institute criminal proceedings for violations of the Civil Rights Acts, and, if crimes are committed, the guilty can be punished. But let us not use the legal officers of the United States in order to aid private parties in a civil suit. If a man is wronged he can hire an attorney and he can bring suit. Let us not create a privileged class for whom the Attorney General will act as a private attorney.

Under the terms of this legislation the Attorney General is given broad authority to delve into the internal affairs of the States. Combined with the exemption from the requirement of exhausting State remedies, this bill is a lethal blow at the traditional American doctrine of States rights.

Part III of H. R. 1151 deals with the civil-rights acts that protect a citizen against deprivation of his rights by other citizens. This is not a matter, in my opinion, for the Federal Government. There is a long line of cases decided in the Supreme Court which hold that the Federal jurisdiction extends only to deprivation of rights through State action. The acts of private individuals are the concern of the criminal laws of the individual States.

The same is true of the right to vote. The Constitution restricts the grounds for which a State may deny the right to vote, and it also provides that the qualifications for voting in congressional elections shall be the same as those for voting for the most numerous branch of the State legislature. As far as I know, there is no other Federal

right to vote. The franchise is a matter of State legislation except for the few specific prohibitions in the Constitution.

The legislation that you are now considering is based on the unfounded premise that the franchise is a Federal matter.

You know, Mr. Chairman, that when our forefathers framed a constitution for this country they instituted two important safeguards for the rights of the individuals. The first consisted of specific prohibitions against certain kinds of governmental action. The second was a diffusion of powers between the Federal Government and the governments of the individual States.

Guaranties against government and the checking of power by other powers have been the traditional safeguards of our liberties. The Bill of Rights denies powers to the Federal Government. But this legislation vests the Federal Government with new powers with which it can oppress the individual citizen.

The very foundation of our Government is the division of authority between the Federal and State Governments, each vested with powers over certain subjects, and each sovereign within its own field of competence. Yet this legislation would give to the Federal Government the power to supervise the States in matters traditionally within the field of State authority. Thus, passage of a measure such as H. R. 1151 would, in my opinion, strike a major blow against the traditional power and independence of the States.

Mr. Chairman, in closing I would like to urge the members of this committee to prayerfully consider the implications any legislation of this nature will have in all parts of this great Nation.

In my opinion, the passage of H. R. 1151, or any similar legislation, would be extremely unwise.

Thank you very much, sir.

The CHAIRMAN. Thank you very much, Mr. Selden.

Any other data you care to submit for the record will be received.

Mr. SELDEN. Thank you, sir.

Mr. KEATING. Mr. Chairman, I have received a telegram from Mr. Clarence Mitchell of the NAACP, reading as follows:

> Yesterday the attorney general of Louisiana asserted that all displaced colored voters had been restored at Ouachita Parish, following telegram received from S. Elmo Johnson, attorney at law, Monroe, La., which is located in Ouachita Parish: "Hon. Jack Gremillion is in error when he states that all Negroes purged from the registration rolls in Ouachita Parish have been restored. Prior to the purge there were more than 5,000 Negroes registered in Ouachita Parish. Today their number is no more than 1,000" Respectfully urge that you include this in the hearing record.

Mr. Chairman, I think, in compliance with his request, that this should be made a part of the record.

The CHAIRMAN. Yes; I will make that a part of the record.

But I want to state I have already received a wire to place in the record from S. Elmo Johnson, attorney at law, 3001 Desiard, Monroe, La., saying that today their number is no more than 2,000.

Mr. KEATING. That says 2,000 are there now, and after I got this wire a phone call came and I frankly don't know who the phone call was from, but they said that that was a mistake. I thought it was the Western Union, but it may not have been, saying that that should be 1,000. I don't know for sure what the facts are.

The CHAIRMAN. We will put them both in the record.

(The telegrams referred to follow:)

MONROE, LA., *February 13, 1957.*

HON. EMANUEL CELLER,
Chairman, House Judiciary Committee,
House of Representatives, Washington, D. C.:

Hon. Jack Gremillion is in error when he states that all Negroes purged from the registration rolls in Ouachita Parish have been restored. Prior to the purge there were more than 5,000 Negroes registered in Ouachita Parish. Today their number is no more than 2,000.

S. ELMO JOHNSON,
Attorney at Law.

WASHINGTON, D. C., *February 14, 1957.*

HON. KENNETH KEATING,
House Office Building:

Yesterday, attorney general of Louisiana asserted that all displaced colored voters had been restored at Ouachita Parish. Following telegram received from S. Elmo Johnson, attorney at law, Monroe, La., which is located in Ouachita Parish: "Honorable Jack Gremillion is in error when he states that all Negroes purged from the registration rolls in Ouachita Parish have been restored. Prior to the purge there were more than 5,000 Negroes registered in Ouachita Parish. Today their number is no more than 1,000." Respectfully urge that you include this in the hearing record.

CLARENCE MITCHELL, *NAACP.*

The CHAIRMAN. The hearings will close for today, and we will resume—and I say this with reluctance—February 25 and 26, which will absolutely be the last days for the hearings.

And I wish to state that even the archangel Michael would not make me change my mind, no matter who makes the suggestion.

On those days we shall hear from Governor Daniel, Senator Talmadge, the attorney general from Arkansas, Senator Thurmond, the attorney general from Virginia, and five Members of the Congress.

I have instructed the counsel to start printing the record so that there will be no loss of time, and frames in the Government Printing Office are being held open merely for recording the testimony of those witnesses who will appear on that day.

I have ordered a meeting of the subcommittee No. 5 on the 27th to start considering a bill so that there will be no loss of time. And I think there will be no loss of time because I am quite sure that if and when the committee adopts a bill and it is approved by the full committee that the House Rules Committee will let us through.

Mr. KEATING. It has come to me by indirection, not by direct contact, Mr. Chairman, that the chairman of the Rules Committee has requested this delay in order to hear the attorney general of Virginia, and I can only say that I trust, since the committee has granted that, that we will have a little reciprocity from the chairman of the Rules Committee in expediting the proceeding before that committee, if, and when, a bill is presented to them for approval.

The CHAIRMAN. I can assure the gentleman from New York that I have had conversations along those lines with the chairman of the Rules Committee, and a very distinguished gentleman of the House, whose name I need not mention, has most urgently asked that we set one of those days apart to hear Governor Daniel of Texas.

At midnight on February 26 will be the last minute for the filing of any statements or data for the record, and the record will be absolutely closed.

Unless there is something else to come before the committee, we will adjourn. But I want to announce, before that, that there will be a meeting of the full Judiciary Committee on Tuesday next, and this committee will meet on Wednesday next to consider 5 or 6 bills.

(Whereupon, at 3:50 p. m., the subcommittee was recessed, to be reconvened at 10 a. m., February 25, 1957.)

CIVIL RIGHTS

MONDAY, FEBRUARY 25, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to recess, at 10 a. m., in room 346, House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler, Rogers, Keating, McCulloch, and Miller.

Also present: William R. Foley, general counsel.

The CHAIRMAN. The committee will be in order.

Our first witness this morning is our distinguished colleague from Georgia, Mr. James C. Davis.

STATEMENT OF HON. JAMES C. DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. DAVIS. Mr. Chairman and gentlemen of the committee, I am glad to have the opportunity to appear before you and the members of this subcommittee in opposition to this group of bills you are now considering. There are so many valid objections to this legislation that one individual can deal with only a small percentage. There are many able Members of the House and the Senate who want to present arguments both factual and legal against these bills. I felt when the announcement was first made that hearings on this legislation would be confined to 4 days at such an early stage of this session, that that was a grave and serious mistake. Your subcommittee has now extended the hearings, I believe, until tomorrow, February 26. I do not believe hearings on such far-reaching and revolutionary legislation should be closed until ample opportunity has been offered for full hearings for those desiring to be heard. I sincerely hope that you gentlemen will not close these hearings until that opportunity has been afforded.

The CHAIRMAN. I want to say, Mr. Davis, all who have sought to be heard have been given an opportunity, and will be given the opportunity.

Mr. DAVIS. As I just stated, Mr. Chairman, legislation which is so far reaching and revolutionary as this ought not to have hearings closed until everyone who wants to be heard has had that opportunity.

I am opposed to this legislation, first, because it is unconstitutional. Second, it is absurd and ridiculous, and third, it is unnecessary. Advocates of this type of legislation have tried to create sectional prejudices. Some have promoted the false theory that the South, my section

of the country, is prejudiced against Negroes and has denied them equal rights in education, in jobs, housing, justice in the courts, and otherwise, while people of the North, East, and West, in direct contrast, eagerly extended to them the right hand of fellowship and gave them a warm welcome into schools, churches, office, factory, and neighborhood community life.

Mr. Chairman, in both respects these claims are false and that attitude is false. Some professional liberals and professional South haters have had the brass and effrontery to assume a holier-than-thou attitude toward the South, and to deal with this question on the basis that it can be assumed without argument that the southern people hate Negroes and make a practice of murdering them, cheating them, oppressing them, and depriving them of civil rights. Whether this attitude stems from ignorance, political considerations, or an evil heart and mind, I do not know. I do know that such an assumption is unfounded.

First I want to give to you some facts in support of the proposition that the Negroes in the South, and the great bulk of them do live in the South, have fared better and received more consideration from white people than those who have left the South and gone to other sections of the country in search of the promised land.

Whatever opposition may exist in the South to integration with the Negro has its counterpart in the North. The thinking people of all sections know this. I want to quote a paragraph from an editorial in Collier's Weekly, for May 11, 1956, and I quote:

> The people of the North can help most, we believe, by cleaning up their own mess, and this process might well begin with a general soul searching to discover what residues of prejudice remain there. When Harlem has been desegregated, when Negroes have been welcomed as neighbors in the present suburbs of New York and Chicago, when the Chinese and Filipinos have been made to feel at home in San Francisco's Sea Cliff and Pacific Heights, there will be time enough to point a finger at the South.

That editorial writer faces the facts and admits the truth, that there is no warmer welcome for desegregation in New York, Chicago, or San Francisco than there is in the South.

I do not, of course, have time to go into this situation in the great detail which the facts bear out, and in support of which thousands of instances could be cited from every section of this country. However, I do want to go into it to a sufficient extent to satisfy any fairminded person that I am not dealing in isolated instances or referring to rare and unusual occurrences.

Former Senator Herbert Lehman, a supporter of integration, of New York City, on June 3, last year, speaking at an Urban League meeting in New York City, said that conditions in Harlem, a large Negro and Puerto Rican community in New York City, "are a rebuke to us of the North." He further told them, and I quote him again, that Harlem is an area of poverty, congestion, substandard housing, and substandard schools.

This is not the statement of a northerner talking about the South. It is not the statement of a southerner talking about the North. It is the statement of a former Governor and Senator of the State of New York talking about conditions existing in his own State and city.

The Christian Science Monitor carried in its issue of February 12, 1956, an article written by Mary Hornaday, bearing the title Barriers

Confront Negroes Seeking Housing in North. She quoted Allen S. Peyton, who wrote a survey of the Negro in the North for Collier's magazine as saying:

The cry of the Negro is no longer, "Let my people go." His cry now is "Let my people in."

I quote the following from her article:

Here in New York City, where Negroes make up about 20 percent of the Manhattan population, they are still almost completely excluded from a free choice to buy or rent homes in the open competitive market. The Protestant Council of the city of New York recently found that 22 of the city's 27 major real-estate operators turned down Negro applicants for apartments, though accepting white applicants of the same economic status.

Into New York's Harlem are crowded more than a quarter of a million Negroes from the Southern States, West Indies, and Africa Negroes began to move into Harlem in 1901 as a result of a deflated boom in real estate. Hundreds of families deserted tenements on the west side to move into apartments built by speculative real-estate promoters. Today Harlem contains Sugar Hill where affluent Negroes live in dignity and comparative splendor but it also contains some of the most notorious rat-ridden slums in New York.

I take it that these statements are true. Certainly no one would undertake to accuse the Christian Science Monitor as being either pro-southern or antinorthern.

On June 12 last year, Mr. Harold Dumas, formerly executive vice president of the American Telephone & Telegraph Co. in New York City said in a speech to the Atlanta Rotary Club that except for public transportation, segregation is just as strong in New York City as any place in the South. He said:

They make a great effort to condemn segregation in the South, but New York is the most painfully racial and religious clique-minded town in existence.

Some writers who have devoted study and thought to these problems feel that Chicago gives New York City keen competition in the field of segregating Negroes. In the Christian Science Monitor of July 16, 1956, a news item by James K. Sparkman quoted a Negro director of the Urban League as saying that Chicago "is the most segregated city in the North," and that Negroes in Chicago "are situated in the middle of the Nation's largest racial ghetto."

He quotes the same Negro spokesman as saying that Negroes pay 30 to 50 percent more than a white man would pay for the same housing and that—

Negroes are not only denied freedom of movement, but they are ruthlessly exploited, overcharged, overcrowded, and disproportionately forced into slum living.

The article by Mr. Sparkman is quite long, but I do want to quote a few paragraphs from it. I don't believe I will take your time to quote it. I will just insert it in the record at this point.

(The information follows:)

CHICAGO NEGROES FIND OLD MANSIONS DISAPPOINTMENT

(By James K. Sparkman)

"Many of our people thought that mansions were palaces. They have found them monstrosities."

This is how Roi Ottley, noted Negro author and Chicago radio commentator, brings home the point that for Chicago Negroes, achieving size in homes has not proved an answer to their longings.

Mr Ottley, along with Negro newsmen, welfare, and politician leaders, is quick to say that if jobs are the incoming Negro's primary gain here, housing is his area of least progress

Indeed, despite the visible evidence of changing home and apartment ownership, including that of many old South Side lakeshore mansions, little has been accomplished when compared with the growing problem, they argue.

Less than a month ago, Edwin C. Berry, new executive director of the reorganized Urban League, concluded from the weight of the league's study data that Chicago "is the most segregated city in the North" even though there has been progress in Negro housing.

"You and I," Mr. Berry told delegates here to a red cap union convention, "are situated in the middle of the Nation's largest racial ghetto."

"It is," he said in describing the area lying parallel to Lake Michigan south of the Loop which takes in the site of the ill-reputed Mecca flats and a hefty fraction of Chicago's 23 square miles of densely populated slums, "8 miles long by 2½ miles wide and contains more people than the entire population of Columbus, Ohio."

RESTRICTIVE DEVICE

By its nature, if not always by design, housing restrictions are "a landlord's device for controlling rents," one Negro spokesman observed here to this correspondent recently The victimized tenant, if given poor return for his money, has little chance to flee Said the Urban League on this subject

"This residential segregation forced by Chicago custom means that Negroes are not only denied freedom of movement, but they are ruthlessly exploited, overcharged, overcrowded, and disproportionately forced into slum living." Although no study of Negro rents in Chicago has yet been made, Mr. Berry estimates that Negroes pay 30 to 50 percent more than would a white man for similar quarters

Why has there been no answer to this problem—especially in an era of record home and apartment building? The causative forces are to be found deep in the nature of the steady stream of 1,000 to 2,500 Negroes which are believed settling monthly in Chicago

(Some Negro spokesmen believe this figure should be smaller; southbound trains are daily full of Negroes, they note, who have decided they have stayed long enough in the Windy City.)

Mr. DAVIS. Illinois, a State which produces so many knights in shining armor to point an accusing finger at the South, has been the scene of race riots with more violence and disturbance in one riot than in all of the Southern States combined. In 1951 the International News Service reported that an anti-Negro mob of 10,000 milled around an apartment house in Cicero, Ill., a west Chicago suburb. These 10,000 Illinois people were stirred to a mob violence pitch because a Negro war veteran undertook to move his family into an apartment building in a white neighborhood.

This news item stated that Illinois National Guardsmen were lined up four deep holding back the crowd with guns and fixed bayonets, and that at least six persons were bayoneted by the guardsmen. The mob which began on Wednesday with 3,000 people grew to 10,000 by Thursday. The Atlanta Constitution of July 12, 1951, carried the news story of the mob violence taking place in Chicago on that occasion.

(The article is as follows:)

SIX WOUNDED AS TEN THOUSAND BATTLE IN RACE RIOT

CHICAGO, July 12.—At least 6 persons were bayoneted Thursday night while steel-helmeted troops and police fought to rout an anti-Negro mob of 10,000 milling about an apartment building in Cicero, west Chicago suburb.

The most seriously wounded was identified as Vincent Kaduk, 20, of Cicero, who was jabbed in the left side with a bayonet.

The others were reported to have suffered minor cuts.

Illinois National Guardsmen were lined up four deep holding fixed bayonets in a cordon about the building, trying to push the screaming crowd back.

Although most of the crowd had edged back to 200 feet from the building, some of the mob kept breaking through to as close as 50 feet from the troop perimeter, tossing bricks, rocks, and firecrackers at the building.

Several windows that had remained intact through two pillagings Wednesday night and Thursday were broken.

Although the guardsmen were outfitted with guns, no shots were fired.

The menacing crowd, kept a block away from the building since sundown, broke through police lines as the steel-helmeted troops arrived aboard guard trucks and chartered buses.

Earlier, police routed 25 persons who broke through their lines by firing pistols into the air.

The violence stemmed from efforts of a Negro war veteran and his family to move into the apartment building. They would have been the suburb's first Negro residents.

Gov. Adlai E. Stevenson ordered 500 troops to the apartment building Thursday after vandals rampaged through the building for the second time

An estimated 3,000 screaming jostling Cicero residents gathered outside the building Wednesday night when teen-agers and hoodlums raced into the dwelling, ransacked four apartments, and made a bonfire of the furniture.

Not a single family remained in the 12-flat structure.

Mr. DAVIS. Mr. Chairman, Chicago people have not become more tolerant since the Cicero occurrence. In 1954, 2 years later, a mob of such size as to require approximately 2,000 policemen per day staged riots at Trumbull Park housing project in Chicago. This resulted, as in Cicero, from efforts to forcibly integrate a Negro family into a white housing project. Eighteen months after the riot started, Police Commissioner O'Connor said that 313 policemen were assigned to the project daily, and that police details at the project have ranged to more than 1,800 men in a 24-hour period.

Michigan has pointed the finger at the South from time to time. In the 1952 Democratic National Convention, Michigan's Governor was brazen enough to say that delegates from the South should actually not be seated in the convention of the Democratic Party. Yet, Dearborn, Mich., is far more prosegregationist than Atlanta, Ga. Dearborn's mayor boasts in newspaper interviews that not a single Negro lives in the city limits of Dearborn. One might judge from the breast-beating of the Michigan Governor that Detroit would be a model brotherhood city to which Negroes might come as a place of refuge from the segregated South and be welcomed with open arms. However, on April 5, 1956, a mob of nearly 500 people in Detroit threw rocks through the windows of the home of a 70-year-old retired private policeman who had just moved in. Although this man said that he and his family were white people, the word got around the neighbors that he was a Negro, and the same sentiment manifested itself in Detroit as in Cicero and Chicago, Ill.

The news item about the Detroit incident is as follows:

DETROIT MOB FORCES OUT FAMILY RUMORED NEGRO

(By Ben Price)

DETROIT, April 5.—Aged John W. Rouse bowed today to his neighbors' belief that he and his family are Negroes.

Rouse said he had decided to sell and move after a near race riot by nearly 500 people last night on quiet, tree-lined Robson Avenue in northwest Detroit. Two windows in the modest brick home were broken by rocks before police broke up the growing demonstration.

PRIVATE POLICEMAN

Rouse, a retired private policeman, insists that he and all of his family, wife, daughter and two grandchildren, are white. The 70-year-old former watchman sold the house to the Belmont Subdivision Association for $18,500, a $2,000 profit.

Under the terms of the sale Rouse has 2 months in which to move. In the meantime he has free rent. When the sale was completed a six-foot red-lettered sign appeared on the front lawn, reading, "Settled." It was taken down an hour later by the association. Police blocked both ends of the street, cutting off the steady stream of curiosity seekers who had been driving past.

"People think that sign means they're going to stay here," one member of the association said.

Mrs. Rouse, also 70, cried, "How do they know we are Negro? They haven't even seen us. We didn't even get out here until after dark Tuesday. I think there is something very wrong. I could expect something like this in a foreign country."

YOUNGSTERS PLAY

While Mrs. Rouse talked, her 2 grandchildren, a boy 7 and a girl 10, were playing with a baseball in the back yard under police protection.

"You know how children are," she said. "They don't know about things like this and I couldn't keep them in the house all day."

"I did not want them in the front yard where the other kids could make nasty remarks."

GIRLS GIGGLE

Off and on all day little girls in Bermuda shorts and long hose passed in front of the Rouse house giggling and occasionally yelling "There's a Negro in the crowd."

Large numbers of teenagers gathered in knots across the street from time to time while housewives sat on porches in the warm sun gossiping about the neighborhood affair.

Oddly, a reporter ranging the street could find no one who admitted having seen or known the Rouse family, but all insisted they knew they were Negro.

RACIAL UNIT

Sgt Thomas Nickerson and Detective Ed Boggs, members of the Special Investigation Bureau which deals with racial problems, tried all day to trace the source of the rumor which set off the demonstration.

"As near as we can determine," said Boggs, "it started with the movers. One of the workmen moving furniture into the house told a boy, "You ought to tell your folks there is a Negro moving in." It apparently started from there."

The gray-haired Mrs. Rouse said, "I guess you know how all this started. I wish they had broken my dishes instead."

TRACE RUMOR

Boggs and the sergeant, in tracing the rumor, found it passed by word of mouth mostly from one agitated neighbor to another.

The two officers said that their investigation showed that both grandchildren were registered at birth as white. Rouse said he was part Cherokee Indian and that his wife is Scotch-Irish and French Canadian.

As I prepare this statement for this subcommittee, newspapers are carrying stories of riotous demonstrations taking place night after night in Detroit to protest a Negro moving into a white neighborhood. These demonstrations began on February 11 of this year.

The CHAIRMAN. Mr. Davis, is not that all the more reason why we need some legislation of this type? This legislation would apply to the North as well as the South, East, and West.

Mr. DAVIS. No, indeed.

The CHAIRMAN. If the conditions are as bad as you indicated in the North, we doubly need this legislation.

Mr. DAVIS. I do not think that demonstrates the need for it at all, Mr. Chairman. It demonstrates that there is a racial problem in New

York City and State, in Illinois, and in the various sections of Illinois, in Michigan, in California, in every section of this country, and that it is not confined to the South, and that it is a problem which needs the thoughtful consideration and experience of those people who have dealt with it throughout the years, as we have.

I am going into this to show that where it is a new problem, the people have not found the means yet of living side by side peacefully as we have in the South.

Mr. KEATING. Do you not feel that to insure the right to vote which is primarily what is done by this legislation—with which you have not yet dealt—would be helpful in bringing about a better situation?

Mr. DAVIS. Not at all. No, indeed I do not, Mr. Keating. I think this, that there is a great spirit of tolerance in the white people of America, in the South, in the North, in the East and the West, but that that tolerance can be pushed to the breaking point, and whereas people have had a field day throughout the years saying that these things exist only in the South, these items which I am talking about here demonstrate that it exists everywhere, and that when the government, whether it be Federal, State, city or county, pushes that tolerance beyond the breaking point, they inspire mob violence.

That is what they have done in these various sections of the North, East and West. We are handling the situation far better in the South than it has been handled up to this point in these other sections of the country. This attitude of undertaking to force integration on people, whether it be the South, North, East, or West, is not successful, and its ultimate result is mob violence wherever it is undertaken.

These demonstrations which I referred to in Detroit, Mich., began on February 11 of this year, and continued nightly. The crowds ranged up to 250, and required 25 policemen to prevent breaches of the peace. The demonstrators are now, today, not only demonstrating in front of the house of the Negro, but also are demonstrating in front of the home of the white woman two blocks away who sold the house to the Negro.

The Washington Evening Star on Thursday, February 21—last week—carried the following news item relating the facts about it and these facts show that the Detroit white people today are exhibiting the same antipathy to Negroes moving into white sections which they exhibited last year in the case of the man who said he is an Indian and not a Negro.

(The article is as follows:)

DETROIT CROWDS PROTEST NEGRO IN WHITE AREA

DETROIT, February 21.—Nightly, crowds demonstrating before the home of a Negro woman who moved into a white neighborhood February 1, have grown to more than 100 on Detroit's Northwest Side.

Police said 100 to 150 were dispersed last night in the vicinity of 12356 Cherrylawn, a house recently purchased by Mrs. Ethel Watkins, a widow seamstress.

Detroit's Commission on Community Relations said demonstrations began February 11 and have continued nightly since with most participants now also demonstrating before the home of a white woman who sold the home to Mrs. Watkins.

The commission identified the white as Mrs. Eugenia Novak, who now lives two blocks away, and police said they had established an around-the-clock two-man guard there as well as at Mrs. Watkins' home.

Police usually dispatch around 25 men to the neighborhood to disperse demonstrators and at times have barricaded Cherrylawn, turning back anyone who could not prove he lived there.

There have been no daytime demonstrations and no peace breaches during the night gatherings, police said.

David Gracie, field representative for the commission on community relations, said several demonstrators have been taken to the precinct police station and talked to, but none has been arrested. First crowds of demonstrators ranged around 200–250, but dwindled to 35–40 over the weekend, then increased last night and the night before.

Mr. DAVIS. Feeling between the races became so intense in Detroit in 1943, that the worst race riot in the Nation's history occurred there.

I hold no brief for race riots. I have never seen a race riot. I have never been near one. I hope I never see one. Race riots are illegal. They occur only when normal restraints are discarded, when respect for law and order is overcome by emotionalism. A race riot or any kind of riot for that matter is the final culmination of a feeling that anything is better than submission to the impending event.

We in the South have maintained all along that by reason of our experience with the race problem we know better how to keep down race tensions, race riots, and ill feeling between the races than those people in other sections who have not had the experience, and to whom the problem is a new one. We believe we are correct in this attitude and belief. I think the riots in Detroit; Cicero, Ill.; the Trumbull Park housing project in South Deering section of Chicago; the lake-steamer riot in Buffalo, N. Y.; the situation in Dearborn, Mich.; where no Negro is permitted to live, and the evidences of race tensions in many cities and areas throughout the country demonstrate the correctness of our views and position on this serious problem.

Regarding the 1943 Detroit race riot, the U. S. News & World Report, of May 11, 1956, said:

On that occasion, roving gangs of each race terrorized downtown Detroit and other parts of the city for 3 days—shooting, stabbing, beating, and looting. Before the United States Army could restore order, 25 Negroes and 9 whites were killed, 700 persons injured, and millions of dollars worth of property damaged or destroyed.

This magazine in the same issue, May 11, 1956, quoted a Detroit Negro paper as follows:

Detroit seems to be rapidly returning to its old pattern of a few years ago, when we lived from crisis to crisis * * * in the last 2 years there has been an unmistakable resurgence in organized resistance to Negroes based upon color prejudice * * * no effort is made to correct tragic mistakes in attitudes which can only lead to the destruction of our whole town.

That is the quotation from this Negro paper.

Another example of the resentment which the white people of Detroit have against Negroes moving into white sections is the occurrence in October 1955, when a Negro couple with three children moved into a home on Chalfonte Street. A mob of about 1,000 white people collected and threw rocks at the home. Two policemen were injured. The family sold the house and moved. This was reported in the Sunday Star on May 13, last year.

Now, Mr. Chairman, there are some things which cannot be forced upon people. Mayor Orville Hubbard, of Dearborn, Mich., told a newspaper reporter in an interview in regard to Negroes moving into that city:

They can't get in here. We watch it. Every time we hear of a Negro moving in—for instance, we had one last year—we respond quicker than you do to a fire. That's generally known. It's known among the Negroes here.

He was asked if the NAACP ever called upon him, and he answered: "No; we'd chase 'em to hell out of town." He is also quoted as saying:

The politicians have made the race question a football. It's hot up here, but we've taken an open stand in our community. Detroit hasn't done it; they're in a hell of a mess. We're for complete segregation, no ifs, ands, or buts about it. That is my position and I tell the Negroes the same thing. I say, "We don't have equality among the whites and you don't have equality among the Negroes Why stir up something when you are getting along all right?"

The newspaper reporter also quoted Mayor Hubbard as saying:

The politicians are trading out their votes Our Governor up here is way over on the thing. He's doing it for votes, right? And civilization is suffering over it.

Now, Mr. Chairman, while the mayor of Dearborn, Mich., states that he would chase the NAACP out if they called on him, they do call upon the mayor of Atlanta, the Governor of Georgia, and any other public officials in our State at will. They hold regional meetings in Atlanta, in Birmingham, Ala., in New Orleans, La., without any trouble at all. While we know they are troublemakers, and while we know that more than 41 percent of their officers and board of directors are listed in the records of the House Committee on Un-American Activities as having connections with subversive organizations, and while we know that their program closely parallels the platform of the Communist Party, they are free to come and go as they please in our section, so long as they are orderly and do not violate our laws.

The CHAIRMAN. Those charges have been denied, Mr. Davis, and emphatically, and even denied by J. Edgar Hoover, that the organization that you mentioned has been riddled with Communists. We hear that so frequently. I have taken it upon myself to do a little checking, and I think that is a rather strong statement to make. There may be a few scattered members who were connected with some of the fringe organizations, but to bring a wholesale indictment against a whole group I think is a little unfair.

Mr. DAVIS. Mr. Chairman, I respectfully do not agree with you on any statement you make. In the first place, it is a factual statement. The names of the parties are given in a report made by Congressman E. C. Gathings, of Arkansas, on February 23, last year. You will find it in the Congressional Record for February 23, last year. You will find there quotations from the records of the House Committee on Un-American Activities giving the names of the organizations. You will find the names of the officers and directors of that organization who have had the connections, and a list of the subversive organizations where they are cited to have had these connections.

It is a factual statement, Mr. Chairman, and anything that is factual is not unfair.

We know, of course, that there is a breaking point in this problem of good race relations. We know that, if attempts are made to force things beyond this breaking point by legislation, Executive orders, or judicial decisions, there finally will come violence. It is to avoid this tragic result that we are so vigorously protesting this legislation. It is hypocritical for so-called liberals in other sections of the country

to point an accusing finger at the South and say we are more intolerant and have more racial antagonism than other sections in the face of such occurrences as I have just outlined: and in the face of such occurrences as fights between 300 white and Negro school students at the Kansas Municipal Stadium on April 24 last year, a fight between about 200 whites and Negroes, with thousands of spectators milling about, in Asbury Park, N. J., on July 2 last year, a fight between white and Negro sailors in Honolulu on June 9 last year, resulting in the death by stabbing of one white sailor; fighting between white and Negro Air Force recruits in Crocker, Mo., on June 1 last year; a racial disturbance in Muncie, Ind., on June 10 last year, resulting in the closing down of a newly integrated swimming pool in that city; Memorial Day race riots last year in Crystal Beach, Ontario, which was referred to in newspaper stories as "a nightmare of flashing knives and sobbing, frightened passengers"; a riot at Newport, R. I., among 1,500 white and Negro sailors and marines, their wives and women companions, on September 18 last year, which completely wrecked a club and sent 15 sailors to a hospital; 1,100 taxi drivers in St. Louis going on strike on August 18 last year in protest against the hiring of Negro taxicab drivers.

On July 25 last year a Toronto judge upheld an apartment house owner in his refusal to rent to a Negro. There were cross burnings and court hearings in Columbus, Ohio, on November 14 last year, resulting from Negroes moving into a white section in Columbus; banishment of a Negro woman and eight children from Cleveland, Ohio, on June 8 last year, although the woman tearfully protested she didn't want to return to Alabama.

Ohio seems to be learning something about the race problem. On August 1 last year a Negro, one I. W. White, Jr., executive director of the Council To Aid Migrant Workers in Cleveland, wrote a letter to an Alabama schoolteacher advising him to urge his pupils to stay in the South instead of coming North. He was reported as having said that "the exodus North of southern Negroes has hurt the battle of Negroes to obtain 'first-class citizenship'." The Ohio Supreme Court on April 18 last year upheld an amusement park near Cincinnati in refusing to admit a Negro.

The papers are constantly carrying news stories of similar occurrences and of racial problems in the North, East, and West. Several years ago Sgt. John Rice, an American Indian who was killed in Korea, was refused burial in a privately operated Sioux City, Iowa, Memorial Park Cemetery. Burial in that cemetery is limited to Caucasian only, and the body of the American Indian sergeant was finally interred at Arlington National Cemetery.

Gentlemen, time does not permit me to give anything like a recital of all the occurrences of this nature even for one year.

Mr. KEATING. You have certainly documented a great many, Mr. Davis, that were not known to me, and have shown a very strong case for the need of some legislation to cure what is an even worse evil than I had realized. This is a very helpful factual situation. I think it points in exactly the opposite direction from what you intend.

Mr. DAVIS. I have taken the trouble and the time to give you these few instances. I have many others that I could have put in here. I would say more than 100 others are in my file alone, and I don't

have a complete file, to show this, that you are dealing with something, when you deal with racial feelings, which is universal. The feelings of the people in the South are no different from the feelings of the people in the North, and that we have learned to handle the problem in the South, as you have not learned to handle it in the other sections of the country, and to point out to this committee the danger of undertaking to force, as this legislation would force, the intermingling and integration of people when they have a firm determination not to do it.

Mr. KEATING. Of course, this legislation we are talking about does not do anything of the kind. It is primarily concerned with the right to vote. Apparently from what you are arguing here, the granting of the right to vote to all people in States like Ohio, New York, and Michigan and others which you mentioned, where as far as I know there has not been disenfranchisement, is not sufficient, and that stronger legislation is necessary. You give us pause as to whether the bill we are considering, H. R. 1151, goes far enough.

Mr. DAVIS. I am going to deal with the voting angle of it a little further along. My first thought is to undertake as far as I am able in my feeble way to document the fact that there is no difference in the way people feel about the race problem in any section of this country, and that they will be pushed so far, and no farther in all sections of the country. That feeling exists.

The CHAIRMAN. Let us accept that as a premise. Then you add that we up here in the North have not learned how to handle the situation. Let us take New York City, for example. In one of our greatest boroughs, the Borough of Manhattan, the president of that borough is a Negro. Negroes in New York City occupy very important positions in the city government as well as the State government in New York. Many of our commissioners are Negroes. Many of them are judges. Many of them hold high official positions in our board of education in the city of New York. They are very important in commerce and industry.

In addition to that, too, in New York attempts are being made now—and I read from the current issue of the U. S. News & World Report, entitled "How New York City Tries To Force Mixed Schools." We are integrating the students.

Mr. DAVIS. And they are not able to force it, are they?

The CHAIRMAN. Yes; we are. Let me read this.

Mr. DAVIS. I have read that, Mr. Chairman.

The CHAIRMAN. I will read you a paragraph from it:

New York school officials are going out of their way to create artificially a thorough mixing of white and Negro pupils in New York classrooms. Negro children are being taken out of predominantly Negro schools and put into schools where all or nearly all of the pupils are white, and white children are being transferred to schools that are predominantly Negro. You find this going on at a time when in many Southern States people are balking at the idea of permitting Negroes to attend the same schools as whites even when they live in the same neighborhood. In New York, however, officials say in some cities outside the South it has felt that segregation has been eliminated and justice to Negroes has been done when Negroes and whites who live in the same neighborhood are permitted to attend the same school. In New York, however, officials say this is not enough. No child shall be deprived of the right to attend a mixed school, even if he lives in an all-Negro neighborhood or all-white neighborhood. They argue that segregation of races produces educational inequality

when the segregation results from housing patterns set as surely as it does when the segregation is written into law.

I know as a matter of fact that they have been rather successful in this enforced integration. We have certain patterns relative to housing where you have people in certain sections who live predominantly in housing that is occupied by Negroes and vice versa in houses occupied by whites. That is unfortunate. That results from the very ideas that you have been expounding this morning. But New York, as far as it can, is trying to level down those barriers. When it comes to schools, they even go so far as to force integration.

Mr. DAVIS. Let me ask you this, Mr. Chairman. Do you think in this supposed land of liberty that people who do not want to go to school with another race ought to be forced to do it?

The CHAIRMAN. I think, on the theory that you don't get proper education if there is segregation, they should be forced. We have an enforced-education law in New York State. No parent can refuse to send children to school. It is compulsory. If it is compulsory to send them to school for an education, the State can lay down the conditions under which that education shall be given.

Mr. DAVIS. Mr. Chairman, you have not been able to force it up to this time in New York State and New York City. I doubt very seriously if you will ever be able to force it. The very thing which you have just pointed out shows that it is not a voluntary movement, this integration, that people object to it, and that the only way it can be done at all is to force it, as they are undertaking to do now in New York City, and the papers are full of it, by taking a school bus and going into a Negro section and getting a school bus full of Negro children, haul them past a Negro school to a school in a white section and put them in a white school, and repeat the process by taking children from the white section, passing the white school and going over and depositing them in a Negro school.

The CHAIRMAN. We do not seem to find any too great a degree of objection to this. You say there is. I say there is not.

Mr. DAVIS. Why would they not be doing that voluntarily if there is no objection to it?

The CHAIRMAN. Some people just do not think about it. Some probably do not want it. But they submit to it when they are reasoned with. They say that is the fair thing to do, and they will do it.

Mr. DAVIS. They are moving out of Washington because they won't submit to it. The reports are that they are moving out of New York and going out into the suburbs where they do not have to submit to it there.

The CHAIRMAN. I want to put in the record this statement of the U. S. News & World Report.

(The report is as follows:)

[U. S News & World Report, February 22, 1957]

HOW NEW YORK CITY TRIES TO FORCE MIXED SCHOOLS—DISTRICTS REZONED, STUDENTS TRANSFERRED—TEACHERS MAY BE NEXT

Is New York City setting a new pattern for integration of public schools?

In New York, a school is considered to be "segregated" if it is all-Negro, even though only Negroes live in its neighborhood.

Authorities say every child—white or Negro—has the right to go to a mixed school.

So New York is trying all kinds of devices to mix schools that are not naturally mixed. School districts are being gerrymandered, pupils moved from one school to another.

This formula goes further than the United States Supreme Court requires. If a new proposal is adopted, it may go even further.

NEW YORK CITY.—Something new in racial integration is being tried here in the schools of America's largest city.

* * * * * * *

"RIGHT" TO MIX

In most cities outside the South, it is felt that segregation has been eliminated and justice to Negroes has been done when Negroes and whites who live in the same neighborhood are permitted to attend the same school.

In New York, however, officials say this is not enough. They maintain that "no child should be deprived of the right to attend a mixed school," even if he lives in an all-Negro neighborhood—or an all-white neighborhood. They argue that segregation of races produces educational inequality when the segregation results from housing paterns just as surely as it does when the segregation is written into law.

To provide integrated schools, New York authorities are spending public funds and rearranging educational patterns of long standing. Thousands of children are being compelled to walk farther than before to school—or ride still farther on buses—in order to achieve what officials call "a better racial balance" in the population of some schools.

Even this is not enough to satisfy the demands of many Negro leaders.

Negroes have demanded all-out use of buses where necessary to end all-Negro schools. One Negro minister, for example, charged that Brooklyn Junior High School No. 258 was a "segregated" school because it contained only eight pupils who were not either Negroes or Puerto Ricans It is surrounded by an almost solidly Negro neighborhood. So he demanded that white children from a neighboring junior-high-school district be taken to No 258 by bus and that Negro children from No 258's district be taken to another junior high school, also by bus, in order to "mix" both schools.

When school authorities refused to do this because it would mean long bus rides for both groups of children, the Negro minister demanded the resignation of New York City's superintendent of schools, William Jansen. Mr. Jansen is still in office. But the Negro minister was soon after elected president of the Brooklyn branch of the National Association for the Advancement of Colored People.

PRESSURE FROM NAACP

New York school authorities are under constant prodding by the NAACP. Partly as a result of this pressure, a survey has been made of New York's racial patterns in the school system, and a master plan has been proposed which could produce far-reaching changes.

Even before the adoption of this master plan, however, much is being done. Here are some of the devices that are being used to promote integration:

* * * * * * *

Some children are being transported by bus across school-district boundaries in a pattern that promotes racial mixing. For example: When a nearly all-white school is not filled by the children who live within its district, Negroes are brought in by bus from a predominantly Negro school which is overcrowded. White children, likewise, when forced out of an all-white school by overcrowding, are placed in a school which has no or few whites. This sometimes means that children ride farther than necessary to reach an uncrowded school.

* * * * * * *

Special programs are devised to bring white children and Negro children together in all kinds of school activities—and in after-school activities, as well. Negro boys dance with white girls in folk-dance classes. White girls dress the hair of Negro girls in beauty-culture classes. Watching these mixed activities, you see no signs of racial awareness among the children.

Where no other way of mixing the races can be found, classes of white students are transported to a Negro school for day-long "visits," and the visits are returned by Negro classes.

LIFE IN A MIXED SOCIETY

Ask New York school officials why they consider themselves obligated to use such measures to get mixed schools, and you get an explanation that goes something like this:

"Psychologists long have held that racial segregation imposes a handicap on the Negro. Now the Supreme Court has adopted that same view. Children, when they grow up, will have to live in a mixed society of whites and Negroes. Therefore, in order to prepare them for life in such a society, children should go to mixed schools.

"It is not only a handicap for a Negro child to go to an all-Negro school. It is also a handicap for a white child to go to an all-white school. Every child has the right to attend an integrated school, whether he is white or Negro."

Not everybody in New York City agrees with this philosophy. There have been protests by parents against the actions of school authorities. There are reports of white families moving to another neighborhood when schools in their district are mixed.

Questions are raised about the authority of school administrators to use public funds and possibly disturb a child's career by going further than the law requires in the mixing of schools.

Among school officials, also, you hear some warnings against "going too far" in forcing integration.

CHANGING THE BOUNDARY

Joseph C. Noethen is an assistant superintendent in charge of several schools in a Brooklyn area that has far more Negroes and Puerto Ricans than it does native white children. He is generaly credited, even by Negroes, with doing much to promote integration and improve race relations.

Mr. Noethen relates proudly how he "improved the racial balance" in two of his schools by taking several blocks from one school district and adding them to another. Assistant superintendents in New York have authority to make such shifts in school-district boundaries, and Mr. Noethen says he often uses that authority.

Yet Mr. Noethen says:

"Integration is best when it comes naturally. When you force it, you often create resentments. The readiness of the population to accept integration must be considered.

"The very act of consciously trying to mix races results in a form of 'segregated' thinking. It used to be that when a child came to me for assignment to a school, I never even thought about his color. I simply sent him to the nearest school that had room and the proper program for him.

"But now I have to consider that child's color—become conscious of his race—and try to assign him in a way that contributes to racial balance."

SETTING A LIMIT

Miss Truda T. Weil, in charge of several school districts in Harlem, is another assistant superintendent who tries in many ways to mix races.

Miss Weil says, "I believe that where schools are on fringe areas, and integration is possible, we are morally and ethically bound to integrate."

However, Miss Weil sets limits on how far she is willing to go. On the use of buses, for example, she is willing to let older children, in the secondary schools, ride buses to mixed schools, "provided the distances are reasonable." But she adds:

"I am 100 percent opposed to transferring children by bus at the elementary-school level in order to achieve integration. I believe that to haul little children long distances is inimical to their health and safety. I am for integration, but one has to use a little commonsense. We should not go to the rediculous lengths of having large groups of children crisscrossing each other in mass migrations across the city."

Brooklyn and Harlem are where you find the greatest concentration of Negroes and Puerto Ricans, so it is in those areas that school officials find themselves under greatest pressure to promote "integration."

The problem is illustrated by figures just recently compiled by school authorities in New York City. Those figures show that, of the 724,000 children in New York's elementary and junior high schools, 132,000 are Negroes and 101,000 are Puerto Ricans. All racial groups are represented in some degree in every one of the city's five boroughs.

Housing patterns, however, separate the races. In 1 Harlem area, for example, there are 16,000 Negroes, 10,000 Puerto Ricans, and only 3,000 others in the public schools. An adjacent area contains 22,000 Negro pupils, 3,000 Puerto Ricans and 10,000 others. In the Bedford-Stuyvesant section of Brooklyn you find a school area with an enrollment of 16,500 Negroes, 4,500 Puerto Ricans, and 7,000 others.

In other parts of the city, whites predominate. An area in Queens, for instance, has only 3,000 Negroes and 1,000 Puerto Ricans among 35,000 pupils.

SEGREGATION BY "ACCIDENT"

When school districts are drawn so that children are sent to schools nearest their homes. The inevitable result of racial concentrations is that some schools will come out all Negro, some all white and many others will contain only a scattering of the minority races.

School officials, looking at this situation, describe it as a form of segregation—they call it "accidental" segregation. And they insist that its effects on children are harmful.

Take, for example, the study that was made of New York's schools at the request of the board of education. The study was made in 1955 by New York University's Research Center for Human Relations. Contributions to the cost of the study were made by the Fund for the Republic—which is financed by the Ford Foundation—and by the Public Education Association.

This study found that:

"Of the city's 639 elementary and junior high schools, 445, or 71 percent, are located in such neighborhoods that they are attended either almost exclusively (90 percent or more) by nonwhite and Puerto Rican children, or have only a sprinkling of these 2 ethnic groups (10 percent or less)."

NEGRO PUPILS LAG

The study found predominantly Negro areas "have a much poorer population" than white areas, and that school facilities in the Negro areas are usually older and slightly inferior to those in white areas. It also found that levels of educational achievement were much lower in schools that were heavily populated by Negroes and Puerto Ricans. At the eighth-grade level, the educational lag was found to be as much as 2 years.

Conclusion of those making the study was that "accidental segregation is also associated with inequality of educational opportunities and facilities," and that "ignoring ethnic differences may inadvertently foster inequality."

Results of the school study were turned over to a special "commission on integration" appointed by the board of education. One of the commission's first acts was adoption of a resolution declaring:

"This commission affirms that it is a desirable policy to promote ethnic integration in our schools as a positive educational experience of which no child in the city should be deprived."

In keeping with this principle, the commission drew up five reports containing recommendations of ways to promote integration. Three of those reports already have been adopted by the board of education. They call for:

Special teaching programs to raise the level of educational achievement in predominantly Negro schools.

Improving the school buildings and equipment in the areas where most Negro pupils are found.

Providing special guidance and educational stimulation for pupils in what the commission calls the rundown areas of the city.

CONTROVERSY TO COME

The two reports yet to be considered contain the most far-reaching—and the most controversial—proposals

One of those reports is designed to improve the quality of teaching in the Negro districts. It would compel a thousand or more teachers now serving in predominantly white areas to take their turns at serving in the Negro areas, where officials say it is hard to obtain good teachers.

The other controversial report under consideration would set up a master plan for rezoning school districts with racial integration as a cardinal principle. It proposes shifting district boundaries throughout the city in such a way as to

bring both white and Negro families into the same school district wherever possible.

It also would authorize use of buses to transport children from one school district to another.

The zoning report—with its provision for bus transportation—stirred up so much objection in public hearings that its adoption was postponed twice by the board of education.

Both the zoning and the teacher-rotation plans are scheduled for consideration again on February 28, however. Adoption of both plans is predicted.

HOW FAR TO GO?

Actually, school authorities say, most of the pending recommendations are already being followed, to some degree. The question in the minds of many New Yorkers is how much further the authorities might go, if the plans are adopted

Superintendent Jansen summed up the probabilities this way:

"For many years the overwhelming number of our schools have had children of more than one race, and we shall continue to make efforts to draw district lines so that they will encompass different races This, of course, assumes that it can be done without making children travel unreasonable distances.

"The danger in this report is that some people may read into it interpretations of an extreme nature, such as unreasonable use of buses. We are not going to move children across town."

In spite of all that school officials can do, Mr. Jansen concedes:

"We will continue to have a few schools in New York that are all of one race. We have to recognize that the problem is tied up with housing and will not be solved until racial separation in housing is ended."

In the meantime, however, New York City is trying to mix the races in school, even if they live in separate areas.

Superintendent Jansen put it like this:

"Integration is more than just admitting a few Negroes into white schools, or a few whites into Negro schools. That may be a big step in the South, but here we must go beyond that."

Mr. DAVIS. While we are thinking about the sectional aspects of the problem, and along the line you just mentioned, Mr. Chairman, it is well to bear in mind that the first court case upholding segregated schools for white and colored children was not in Georgia, not in the South. It was in Massachusetts. The case was that of *Sarah C. Roberts* v. *The City of Boston* in 1849, 108 years ago. It is reported in 59 Massachusetts 198. The opinion was written by Chief Justice Shaw. It was a case where the parents of Sarah C. Roberts, a Negro girl, wanted her to go to a primary school supported by the city of Boston for white children only. She had been assigned to a primary school supported by the city for colored children only. She alleged that this was discrimination on account of race and color. The court denied the petition and held it was proper for the city of Boston to send this child to a colored school.

On the question of prejudice the court had this to say:

It is urged that this maintenance of separate schools tends to deepen and perpetuate the odious distinction of caste founded in a deep-rooted prejudice in public opinion. This prejudice, if it exists, is not created by law and probably cannot be changed by law.

On the question whether prejudice would not be as effectively fostered by compelling white and colored children to associate together in the same schools, the Massachusetts court said:

At all events, it is a fair and proper question for the committee to consider and decide upon, having in view the best interests of both classes of children placed under their superintendent. We cannot say that their decision upon it is not founded on just grounds of reason and experience and the results of a discriminating and honest judgment

The CHAIRMAN. What is the date of that case?

Mr. DAVIS. 1849. The Supreme Court of Massachusetts and I gave the citation for it.

Although vote-hunting politicians are pandering to such groups as the radical NAACP in trying to force race mixing on protesting people, it is not succeeding. This is true in New York City as well as Atlanta, Ga. On February 7 this year, Robert C. Weaver, New York rent administrator, said that racial segregation is increasing in cities and suburbs. He said that—

existing Negro ghettos in cities were getting larger and new "lily-white" subdivisions were growing beyond city lines.

He also said:

The majority of our dwelling units are still closed to minorities. Our failure to secure a wide distribution of ethnic groups throughout communities tends to increase segregation in all its forms.

The CHAIRMAN. I want to say as to that, Mr. Davis, in New York State we have a commission on bias and any number of cases are brought into court and remedies are afforded in many, many of those instances.

Mr. DAVIS. This was a statement which he made about 2 weeks ago, Mr. Chairman, and I know that your laws have been on the books, and I know they have been tried. But after trying them, that is what your rent administrator says is the condition that you have in New York.

The CHAIRMAN. That is a condition he is trying to eliminate.

Mr. DAVIS. I understand he is, but he is not able to do it. The people in New York City and State are not able to do it because this race problem is something you cannot solve by legislation.

He also said that the influx of Negroes into northern cities increased their concentration in those neighborhoods where housing was available to them and this in turn resulted in some schools, parks and other community facilities being utilized almost exclusively by Negroes, while those in other neighborhoods serve only white residents.

His statements are found in an article in the Atlanta Constitution of February 8, 1957, which I quote in full, and which there is no use to read and take up the time at this point.

(The article is as follows:)

NEW YORK RENT CHIEF FINDS SEGREGATION ON UPSWING IN CITIES AND SUBURBS

NEW YORK, February 7.—Racial segregation is increasing in cities and suburbs, Robert C. Weaver, New York rent administrator, declared tonight.

Despite scattered progress against discrimination in the sale and rental of housing, Commissioner Weaver said, existing Negro "ghettos" in cities were getting larger and new "lily white" subdivisions were growing beyond city lines.

"Signal gains have been made in New York State in barring discrimination in publicly assisted housing," he said, "But the majority of our dwelling units are still closed to minorities. Our failure to secure a wide distribution of ethnic groups throughout communities tends to increase segregation in all its forms."

Weaver said the influx of Negroes into northern cities increased their concentration in those neighborhoods where housing was available to them.

He declared this, in turn, resulted in some schools, parks and other community facilities being utilized almost exclusively by Negroes while those in other neighborhoods served only white residents.

Weaver and Herbert Bayard Swope were guests of honor at a fund-raising party for the national and New York State committees on discrimination in

housing Two hundred persons were present in the home of Mr. and Mrs. Ronald Tree, 123 East 79th Street.

Weaver was chairman of the committees from their organization in 1950 through 1954. He resigned to become deputy State housing commissioner. Swope was honored for his service as chairman of the New York City Commission on Intergroup Relations, which he held until last December 31.

Weaver said passage at Albany of the Metcalf-Baker bill was "imperative to extend nondiscrimination coverage to a broader segment of the housing market."

The bipartisan measure is now in the finance committee of the State senate and in the assembly's judiciary. It would outlaw discrimination in most of the 4 million private housing units in this State. The present Metcalf-Baker law bans discrimination in housing that receives any form of public aid.

Algernon Black, chairman of the committee on discrimination in housing, declared passage of the Metcalf-Baker amendments would "set an example in civil rights for the whole Nation." He said it was the first antibias bill affecting private housing to be introduced in any State legislature.

Mr. DAVIS. Now, Mr. Chairman, it is a cruel fact that hypocritical representations of some contemptible politicians seeking Negro votes have created false hope in the minds of southern Negroes. Some Negroes have accepted these hypocritical statements at face value and are moving into such cities as New York, N. Y., Chicago, Ill., Detroit, Mich., Columbus and Cincinnati, Ohio, and elsewhere, believing that they will be accepted into schools, churches, and all phases of community life. When they arrive, they find the opposite is true. They are herded into squalid tenement quarters like cattle. They are overcharged. They are cheated. If they settle in a white neighborhood the white people rush to move away as if the bubonic plague had struck the community. Although Negroes are not segregated by law, they are segregated by reason of residence, and the only way their children can be sure of attending nonsegregated schools is for the school authorities to haul Negro children from Negro communities past Negro schools, and enter them in white schools in white communities, and on the other hand to haul white children from white communities past white schools and put them in Negro schools and Negro communities.

This is pointed up by an article in the Wall Street Journal of January 29, 1957, entitled, "School Migration," which gives all the facts relating to that practice.

The CHAIRMAN. Mr. Davis, how long do you think your statement will take?

Mr. DAVIS. It is 36 pages, a good deal of which is quotations from articles like the one which I have just skipped and contains 2½ pages. The total number of pages is 35.

The CHAIRMAN. The reason I asked is that we have our colleague, John Bell Williams, and I do not want to hold him too long. If his statement is brief——

Mr. WILLIAMS. Mr. Chairman, I would be very happy to wait until next week or next year.

The CHAIRMAN. I want to suit your convenience.

Mr. DAVIS. Mr. Chairman, to read, I have about 7 or 8 more pages, which would take, I would say, 15 minutes.

The CHAIRMAN. Very well. I do not wish to hurry you.

Mr. DAVIS. I appreciate your consideration, Mr. Chairman.

As I was just stating, I have reached and quote here the article in the Wall Street Journal which gives in detail the facts about this situation where the integrated schools do not integrate.

(The article is as follows:)

SCHOOL MIGRATION—NEW YORK CITY REGROUPS PUPILS IN EFFORT TO ABOLISH NORTHERN FORM OF SEGREGATION

(By Peter B. Bart)

NEW YORK.—Every weekday morning several school buses pull up in front of Public School 93 in the Bronx and some 200 Negro children scamper off to class.

Until last September these 7- and 8-year-old tots could walk to their own neighborhood schools. Today the city of New York takes them in buses the 20 city blocks or more to PS 93.

Their daily journey is part of an enforced mass migration of schoolchildren being launched by New York's board of education. It's a matter of racial integration. Until the Negro children were transferred to PS 93, that school was attended almost entirely by white pupils living in the neighborhood. Now, like many of the 790 other New York public schools, it is mixed.

Mixed is a big word in New York City these days. Without fanfare—but by no means without objections—city officials have begun a program of racial integration that involves more than a policy of nondiscrimination. As at PS 93, many school youngsters are already being transported from one school district to another so the board of education can achieve what it feels is a proper balance.

This is only a beginning. A master plan to speed up the integration process for New York's 925,000 public-school pupils has been drawn up by the subcommittee on zoning of the board's commission of integration. If approved, the plan will take effect next September. It proposes extensive use of city-financed buses to create racially balanced schools, and suggests that racial integration should be the sole objective of school zoning.

ROTATING TEACHERS

Also under consideration: A plan for the rotation of experienced teachers from "good" schools to "problem" schools so as to improve the quality of instruction in slum areas. Meantime, the board of education wants a $68 million boost—to $412 million—in its new budget; some of the additional money would be used to expand the work of the commission on integration.

The aim of all this activity is to eliminate the school segregation that occurs in the North as an outgrowth of local housing patterns. To banish it the officials must also banish the traditional concept of the "neighborhood school."

Elsewhere in the North this campaign to abolish alleged de facto school segregation is also picking up in intensity—notably in cities like Chicago, Philadelphia, and Detroit. But the most impressive efforts are being made here in New York.

Even here the size of the school migration can't be fully measured. One difficulty is that its operation is decentralized; school officials say they've made no attempt to add up the number of pupils transferred. Another is that the best-informed officials hesitate to give a guess; they shy away from public comment because they think it is an explosive subject.

CRISSCROSSED CITY

Nevertheless, all concede that hundreds of New York students are already crisscrossing the city by bus and subway to schools far from home. In the slum-ridden Bedford-Stuyvesant area of Brooklyn, full-scale transfers of children from zone to zone have brought about integration in at least 20 schools since the opening of the school year.

Not only are children from Negro sections like Harlem traveling to hitherto all-white schools; in some instances, white pupils are crossing regular school zones to enter all-Negro schools.

"One junior high school in my three Brooklyn districts was almost entirely Negro last year, and it's now 50–50 in racial composition," says Samuel M. Levenson, an assistant superintendent of schools. He adds: "In another junior high school white students were brought in from a mile or so away to prevent it from becoming 100-percent Negro."

"We've got busloads of Negro children coming in from big distances," the principal of a formerly all-white school in Manhattan relates. "I hate to think what it's costing the city."

In some cases, integration is being achieved by means of minor gerrymandering of school zones without much transfer of pupils This is particularly true of schools in so-called fringe areas where white and Negro neighborhoods converge.

VIGOROUS PURSUIT

Spearheading the integration movement in New York and other cities, is the National Association for the Advancement of Colored People. At its 1956 convention in San Francisco the NAACP resolved that "the entire resources of this organization be dedicated to pursue with vigor the elimination of segregation in fact in the schools in northern communities. * * * We cannot wait for residential discrimination to be eradicated before something is done about the elimination of segregation in our northern public schools."

Backing the NAACP in a number of cities are such groups as the Urban League, Americans for Democratic Action, United Automobile Workers, plus local civil rights and religious groups.

Not surprisingly, public officials are extremely sensitive on the issue. Consider the curious case of an obscure Brooklyn minister, Dr. Milton A. Galamison of the Siloam Presbyterian Church. Irritated by what he considered to be a delay in "desegregating" Brooklyn Junior High School 238, Dr. Galamison sent a personal telegram to Superintendent of Schools William Jansen demanding the latter's resignation.

To the minister's astonishment, Dr Jansen personally called and "asked for an appointment." Later the telegram was released to the press along with a rather defensive explanation by Dr. Jansen of his position. Thus the affair attained citywide publicity And Dr. Galamison was elected president of the Brooklyn branch of the NAACP.

MOVING AWAY

School authorities tend to discount the protests they hear. "We had some white parents who threatened violent action if their children were transferred to Negro schools," confides a Brooklyn principal, "but in the end some of them just gave up and moved away" Agrees Rev. Dr. David M. Cory, executive secretary of the Brooklyn division, Protestant Council: "You hear a lot of talk about violent opposition to school integration, but I have yet to find any actual manifestation of it."

Nonetheless, some open opposition exists. The scheme to rotate experienced teachers from good to problem schools has already drawn sharp objections from the powerful High School Teachers Association. Its president, Mrs Concetta T Roy, warns: "It will only create more dissatisfied high-school teachers."

And Rev. W Sterling Cary of Brooklyn says: "I just don't think the schools are the answer. The real problem lies in the housing ghettoes themselves which are the cause of northern school segregation. And I think all this rezoning could be a hardship on children who may have to travel great distances to school every day"

"I believe we're being stampeded into a dubious program," contends the principal of a recently integrated Brooklyn school "We have incontrovertible evidence of large numbers of white children withdrawing from schools when Negroes are brought in from outside Many New York schools will be 100-percent colored within 2 years after Negro children are introduced. The hard truth is that we can't have full-scale integration until both Negroes and whites are really ready for it."

But such voices seem unlikely to halt the rush As one highly placed New York school official puts it: "Any racial issue is political dynamite in a city like this. If anyone suggests that the integration program be slowed down while we find out where we're going he's immediately branded a racist."

Mr. DAVIS. Any unbiased and objective study of the race question will show that where there is any appreciable number of colored people, generally the same attitudes exist and the same feelings are held, whether it be Detroit, Chicago, New York City, or below the Mason-Dixon line. One difference which exists is that people in the South are less hypocritical and deal with the problem more realistically than people in many other sections to whom the problem is a new one.

At the present rate of migration, the people in the North, East, and West are not going to remain unacquainted with the problem much longer. It is probably a good idea that Negroes are being attracted away from the South into other sections by the pleasing stories they hear of higher wages, good living conditions, and integrated schools and dwellings.

This migration very likely will continue, unless such people as the Cleveland judge who banished the Negro woman and her eight children back to Alabama, and the Cleveland Negro who wrote to the Alabama schoolteacher to keep his pupils in the South, can convince southern Negroes that they are better off at home, and that they are not wanted in the North.

Mr. ROGERS. You are acquainted with the Andrews bill on the resettlement of peoples?

Mr. DAVIS. Yes; I have heard it discussed.

Mr. ROGERS. I assume you would favor that?

Mr. DAVIS. I have not considered it sufficiently to take a position on it this morning.

Mr. ROGERS. I have heard Mr. Andrews discuss it some. Frankly, I have not read the bill. I don't know what the cost would be.

Mr. KEATING. I can tell you it would cost quite a lot because it provides that anybody who does not like the laws or customs of any particular State can obtain Federal aid to move him to another State. From my mail, I would say there is not anybody up in the North that likes the laws and all the New Yorkers would want to move to Georgia.

Mr. DAVIS. Many of them are doing it. We are glad to have them. We welcome them down there. We would hope they will continue to come.

Mr. KEATING. I think it ought to be voluntary. I don't think the Federal Government ought to help pay the way to move to Florida, Georgia, or a warmer climate or something, on the basis that they do not like the laws. Knowing some of the views of the gentleman from Georgia with regard to money matters, I suspect he would not favor Congressman Andrews' bill. As he says, he has not had time to study it.

Mr. DAVIS. No. I have not, Mr. Keating.

In the South, we have known for many years that, if Negro children are to be educated, the cost of educating them would have to be paid for by white people. I live in DeKalb County, Ga., whose population is 210,000. It was 186,000 in 1950. The city of Atlanta lies in Fulton County, and DeKalb County, and I want to give you some facts about our treatment of Negro children which may be news to some of you.

In 1950, I requested the superintendent of county schools in my home county to give me figures from his records regarding the number of Negro children in our county public school system, the cost of operating those schools, and by whom that cost was paid.

The facts were that we had 2,042 Negro children in the county public school system; that the county, not including the State contribution, spent $85.33 per pupil on white and colored alike, which amounted to $174,243.86 the county paid toward the education of these Negro children.

His information further showed that Negro property owners in DeKalb County paid school tax upon 1,348 parcels of real estate, total

valuation of $357,320, net valuation after deducting homestead exemptions, $77,600. Negro property owners paid taxes upon 842 items of personal property, gross valuation $79,500, net valuation after homestead exemption $50,750. The Negro property owners thus paid school tax on $128,350 of taxable property. Our school tax rate is $1.50 per $100. The total amount of school taxes paid by those property-owning Negroes was $1,925.35.

The county operated 4 Negro school buses to haul Negro schoolchildren to the county public schools at an annual expense of $2,000 each, or a total expense just for school busses of $8,000. So the total school taxes paid by the Negroes of DeKalb County into the county school system was less than one-fourth the actual money spent by the county to haul their children to the schoolhouses. The $1,925.35 would provide less than $1 per pupil for the 2,042 Negro children who attend the county public schools.

We have known all through the years that we have to carry the tax burden. We have carried it uncomplainingly, and are now carrying in uncomplainingly, because we know that if the burden of educating their own children were carried by the Negroes, they simply would not be educated. Last year, in 1956, I asked the county school superintendent to furnish me the same information which he previously furnished me in 1950. Last school year the State of Georgia paid $92.35 per pupil for operating purposes, and DeKalb County paid $51.70 per pupil, making a total of $144.05 per pupil. Of the $51.70 local payment the Negro taxpayers paid $1.93 per pupil; the white taxpayers paid $49.77 per pupil. In the past 6 years the DeKalb County Board of Education has spent $1,377,223.28 rehousing Negro children and purchasing school equipment for them. This represents $517.95 per Negro pupil in capital outlay.

The value of Negro property in my home county has grown now to $326,920, and their annual school taxes for 1956 amounted to $5,124.47, which, as I stated before, amounts to $1.93 per Negro pupil.

Mr. Chairman, on Sunday, December 11, 1955, DeKalb County dedicated 13 new school buildings. Eight of those were for white children, and five of them were for Negro children. At this time all Negro children in our county are in new classrooms. All Negro schools meet full standards for accreditation; of the Negro teachers, 17 percent hold master's degrees; 75 percent hold bachelor of arts or bachelor of science degrees, and only 8 percent have less than 4 years of college. No Negro teacher with less than a bachelor of science degree has been employed in the last 5 years.

At this point I want to show you gentlemen of the subcommittee some actual photographs of some of these schools I have been telling you about. That gives you the actual picture of what we are doing for them in my home county and State.

Gentlemen, such legislation as that which you are now considering would disrupt our peaceful relations. Destruction of our segregated system of schools would carry with it destruction of the opportunities now enjoyed by qualified Negro teachers in the South. This is pointed up by a recent article written by a Negro named Davis Lee, who is publisher of the Newark (N. J.) Telegram. This article was written

by Lee after visiting Georgia and the South and seeing for himself what the conditions are. Here is what he says about it.

The efforts being made by certain paid agitators and pressure groups to have segregated schools in the South declared unconstitutional may cause southern Negroes to lose a lot more than they will gain. Integration in the schools in the North, and East—

and this is a New Jersey Negro who is writing this—

is not a howling success. A Negro can attend most of the schools up here and get an education. But few of the States that educate him will hire him as a teacher. The State of Connecticut does not have 25 Negro teachers.

He says:

Recently I visited Albany, the capital of New York State, and learned that the city only employs 3 Negro teachers. Our own city, Newark, with Negroes constituting 20 percent of the population, employs 2,200 teachers, but only 70 of them are Negroes, and we don't have 1 Negro principalship.

I won't read all that he said, but I will put it in here, and I do hope you may have time to scan it.

(The article is as follows:)

(By David Lee, publisher, Newark (N. J.) Telegram)

The efforts being made by certain paid agitators and pressure groups to have segregated schools in the South declared unconstitutional may cause southern Negroes to lose a lot more than they will gain. * * *

Integration in the schools in the North and East is not a howling success. A Negro can attend most of the schools up here and get an education, but few of the States that educate him will have him as a teacher. The State of Connecticut doesn't have 25 Negro teachers.

Recently I visited Albany, the capital of New York State, and learned that the city only employed 3 Negro teachers. Our own city, Newark, with Negroes constituting 20 percent of the population, employs 2,200 teachers, but only 70 of them are Negroes, and we don't have 1 Negro principalship.

Nowhere in these integrated States do Negroes get anywhere near proportionate representation. Every device is employed to keep qualified Negroes from being assigned. Recently a reputable New York labor union made a report on the employment of Negro teachers in New York City and charged that a systematic scheme has been adopted to exclude Negroes as teachers.

This is not true in the South. The State of Georgia employs 7,313 Negro teachers and paid them close to $15 million in salaries last year. North Carolina paid its Negro teachers over $22 million last year. Florida is another State that ranks at the top on teacher pay.

If these States, that are now pouring millions of dollars annually into Negro pockets which provide our people with money that enables them to enjoy the dignity of man, to enjoy prestige and respectability, to buy homes and the necessities of life, are forced to abandon the segregated school, 75 percent of the Negro teachers in the South will lost their jobs. Not only that, but approximately 20,000 Negro principals will lose their jobs as well.

Can the southern Negro afford to take this sort of economic licking for the privilege of sending his kids to a mixed school? I don't think so. The price is too great. Again, what will happen to race relations in the South if school integration is forced down its throat. At present 50 percent of the southern Negroes assume very little personal responsibility Their employers do everything for them, including selecting an undertaker when a death occurs.

Certainly, ruling out segregation in the schools is not going to change the habits of these Negroes, but white employers will definitely change their habits, and to the detriment of these poor people who are not responsible for the forced change. * * *

This present movement to end segregation in the schools is merely the beginning of a well laid plan to completely end segregation in everything in the South. If this happens, the Negro will be thrown into direct competition with the white race, and our business institutions will crumble.

No place in the world do Negroes own and control as much as do those in the South. Atlanta is without question the Negro capital of the world. It is the

center of Negro culture, education, business, and finance. And both Negroes and whites live, work, and operate business without either being conscious of the other's race.

This movement to integrate the schools in the South is loaded with more racial dynamite than appears on the surface, and the Negro will be the one who is blown away.

During the past 2 years I have spent more time in the South than I have in my office, and I have interviewed thousands of Negroes in all walks of life, and I have found very few who favor mixed schools. They want their own schools, but equal facilities. This being the situation, one questions the fairness of forcing these colored citizens to accept what they don't want. If a little group of paid agitators succeed in forcing their will upon these people, it appears to me that they should at least be given an opportunity to be heard.

Right now the southern Negro is in a better spot educationally, politically, and economically than the Negroes any place else in the world. Race relations are continually improving. Every day more southerners are recognizing the Negro as a man and according him the respect which he merits, but the southern Negro himself can do more about improving conditions than can courts, legislation, or pressure groups. * * *

Mr. DAVIS. In the 5-year period from 1951 to 1955, a $274 million school-construction program was carried out in the State of Georgia. More than half of this school construction, 54 percent of it to be exact, went into construction of Negro schoolhouses. The Negro schools are exactly the same modern, fully equipped schools as the white. In my own county Negroes have fared better than white students, because now all Negro students are in new construction, while many white students are still using old schoolhouses. I do hope you will look at those photographs there and see what we are doing.

Gentlemen, we name the Negro schools after outstanding Negro citizens, which we believe is an inspiration to Negro children to become good citizens themselves.

We also provide for higher education of Negroes. There are Negro colleges and universities in Georgia, and the State has a scholarship-assistance program under which, during the school year 1954–55, 2,290 grants were made to 1,825 Negroes studying at 67 institutions, at a cost to the State of Georgia of $208,217.90 for that 1 school year. So you can see, Mr. Chairman and gentlemen, that the white people in my State and in my congressional district are giving the Negro children, almost wholly unaided by the Negroes themselves, unlimited educational advantages. We have done this, and we are doing it, uncomplainingly.

We encourage them to progress as much as possible. In my home district they have progressed to a remarkable extent. They own banks, radio stations, insurance companies, drugstores, grocery stores, office buildings, undertaking establishments, and commercial businesses of practically every description. It will probably shock some of you to know that there are Negro policemen serving on the Atlanta City police force, and that a Negro member serves on the City of Atlanta School Board. There are some 25,000 registered Negro voters in the city of Atlanta. Everyone is registered who wants to register, just as the white people are, and everyone votes who wants to vote, just as the white people do. They do not have to vote to themselves. They stand in the same lines the white voters stand in, and they use the same voting machines which the white voters use.

We insist upon segregation, yes: for experience of generations and years has demonstrated that good will and the mutual advantage of both races is best served on a segregated basis. The Negroes know

that as well as we do, and the peaceful relations which exist between us demonstrate unquestionably that our solution of the problem is the best solution.

Mr. KEATING. Judge Davis, you say there are 25,000 qualified Negroes in your congressional district?

Mr. DAVIS. No. In the city of Atlanta alone. There are more in the congressional district.

Mr. KEATING. How many white voters?

Mr. DAVIS. I should have brought those figures with me. I had them at the office. I will have to guess at it.

In Atlanta the population proportion is about one-third to two-thirds. We have about one-third colored to two-thirds white.

Mr. KEATING. Do you have about 50,000 white voters?

Mr. DAVIS. No, we have more than that. In the last election on November 7 of last year, I believe, the total vote in my district was 141,000. That includes three counties, not only the city of Atlanta. It includes two other counties. They register in about the same percentage that the white people do. The white people don't register in nearly the percentage that they could if they wanted to.

Mr. KEATING. In other words, based upon their population the Negro voting population is approximately the same to the total population?

Mr. DAVIS. It runs relatively pretty much the same. Neither race registers to anything like their full capacity. Neither race of those who are registered vote anything like their full capacity. I am sorry to say it, but it is a situation which is not peculiar to Atlanta, Ga., but people all over the United States. They do not appreciate the right to vote as they ought to. We have there just about the same situation. It may be some better, and I think maybe it is some better in New York and some of the States where they carry on probably more active campaigns to get the voters out.

I have given you the figures here as to how many of the Negroes are registered. The district vote, as I told you in the last election, was 141,000.

Mr. KEATING. Is there a literacy test in Georgia for voting?

Mr. DAVIS. We do not give anybody any kind of test, Mr. Keating. They come up and they stand in long lines, both the whites and the blacks, at the registration window. They come up and sign their names and give their addresses and state how long they have lived there, and the man fills out the registration certificate as fast as one can come up. Nobody gets any kind of a test at all.

I think that there is a statute on the books which would authorize tests to be given. But tests are not given. It is simply a matter of getting them to come to the registration office and demonstrate enough interest to get on and everybody is taken on who comes.

The CHAIRMAN. Mr. Davis, do you take seriously the resolution adopted by the Legislature of the State of Georgia calling upon the Representatives in Congress from the State of Georgia to initiate impeachment proceedings against six members of the Supreme Court, namely, Chief Justice Warren, Associate Justices Black, Reed, Douglas, Frankfurter, and Clark? Do you take that resolution seriously?

Mr. DAVIS. What do you mean by the term "take it seriously"?

The CHAIRMAN. Have you introduced a resolution of impeachment?

Mr. DAVIS. No, sir.

The CHAIRMAN. Do you intend to?

Mr. DAVIS. I only got that resolution this morning. I have not had a chance to read it.

The CHAIRMAN. Our colleague, Mr. Vinson, of Georgia, disapproves of such an impeachment plan. Do you agree with our colleague from Georgia, Mr. Vinson?

Mr. DAVIS. I have not seen what Mr. Vinson said about it. I do not know what he thinks about it, because I have not discussed it with him. But answering your question as best I can, I will say this: When the legislative body of any one of the 48 sovereign States passes a resolution through both houses, it is something which I think must be regarded with seriousness. As to the probability of any impeachment resolution going through Congress, I do not think there is any chance whatever.

The CHAIRMAN. It would have no chance, I can assure you, as far as the chairman is concerned.

Mr. DAVIS. I have seen where some people said that the passage of a resolution was a disgrace, that it was tomfoolishness and made very derogatory remarks about the Georgia Legislature. I have no hesitation in saying this: I am personally acquainted with many of the members of the Georgia Legislature. I know them to be people of the very highest character and highest integrity. I know that they have had great provocation by what the Supreme Court has been doing in the last 15 or 20 years in usurping legislative authority and in undertaking to break over the bounds which properly belong to them. I say that not only with reference to the school cases. I say it with reference to the Slochower case, the Steve Nelson case, and a number of other cases that have no relation whatever to racial problems. The Supreme Court, in my opinion, has been following a pattern of usurping legislative functions which it does not possess. I think that it constitutes a grave danger to our constitutional form of government. Although I don't think that there is a possibility of any such resolution passing Congress, I do think that the people have had ample and sufficient provocation to become indignant at the pattern of conduct which the Supreme Court has been following.

The CHAIRMAN. But the resolution goes beyond your criticism. I ask you whether you agree with the State legislature's resolution, a portion of which says as follows:

> The six [meaning the judges] are guilty of attempting to subvert the Constitution of the United States and of high crimes and misdemeanors in office and giving aid and comfort to the enemies of the United States

Do you agree with that?

Mr. DAVIS. They have given a lot of aid and comfort to enemies of the United States by keeping Harry Bridges in this country. The case has been there several times, at least twice that I know of, where he has been ordered deported and they have always found some way of keeping him here. That conduct has afforded aid and comfort to enemies of the United States.

I don't know whether that is what the Georgia Legislature was referring to or not. I am greatly concerned, Mr. Chairman, when the Supreme Court, as it has done in the last 15 to 20 years, undertakes to usurp legislative functions and undertakes to destroy the authority of the States as it did in the Steve Nelson case, and to say that a

State does not have authority to prosecute anyone for subversive activities and for undertaking to overthrow this Government by revolution, by force and violence, I think we have reached a serious state when the highest court, without what I consider any proper legal foundation or basis, reaches out and takes from a sovereign State the right to prosecute one who would within its borders advocate the overthrow of this Government by force and violence.

The CHAIRMAN. It only said that would result where the Federal Government preempts the jurisdiction over sedition.

Mr. DAVIS. The Federal Government has not preempted it. Congress has not. The statute has specifically said that it has not preempted it.

Mr. KEATING. I agree with your conclusions in the Steve Nelson case. This committee in the last session voted out a bill to cure the situation as far as the Steve Nelson case is concerned, and we were not able to get a rule on it from the Rules Committee.

Mr. DAVIS. I know about the differences of opinion that exist on that. I am glad to know that the members of this committee have the same opinion about that that I do. I do not think it gravely needs any correcting.

Mr. KEATING. I do not want to be misunderstood.

Mr. DAVIS. You don't have to go along with me.

Mr. KEATING. The decision in the Steve Nelson case is no indication to me that the members of the Supreme Court who rendered that decision with which I disagree are guilty of high crimes and misdemeanors. When we reach the point in this country where the Supreme Court renders an unpopular decision and the Justices are immediately indicted for high crimes and misdemeanors, we are striking at the very heart and core of our entire system of government it seems to me.

Mr. DAVIS. I think that demonstrates, Mr. Keating, that we are dealing in these matters with problems that arouse the emotions of the people. They ought to be dealt with calmly and considerately, and with much thought and forbearance. That is why I am here today taking your time and my time urging you not to try to make legal problems out of these things that are not legal problems. Let them be settled by human experience, by good will on the part of everybody, and don't send the Federal Government into a State and say, "You don't want to do it, but we are going to make you do it." Let me tell you you can't do that.

The CHAIRMAN. It is actions like this—the action that I have just called attention to—of the State Legislature of Georgia, instead of smoothing out the rough edges between factions, only exacerbates the situation, because people get enraged when they read that a State legislature would go as far as they do, and make a disagreement with their decision tantamount to subversion. That is going pretty far, and is rather highhanded.

Mr. DAVIS. As I have said, that just came in this morning, Mr. Chairman. It is some 16 pages. I did not have time to read it before I came over here. Let me say this to you. The Georgia Legislature is composed of the highest type of people, and they are not highhanded people. They have had much provocation to become indignant at the Supreme Court. I myself am indignant at many of the things they

have done. If they are not curbed, I want to tell you this. They present a threat to constitutional government.

Mr. KEATING. What was this decision of the State Legislature of Georgia? Was this unanimously adopted?

Mr. DAVIS. No.

The CHAIRMAN. There were not many dissenting votes.

Mr. DAVIS. It was not unanimous.

Mr. ROGERS. Judge, do you know of any method if the Supreme Court did exercise its authority beyond the intent of any method that they could be curbed by other than that suggestion?

Mr. DAVIS. Only by the passage of time, when they get off the Court and are replaced by someone who has more regard for constitutional law than they apparently have. That is the only method that I know of other than impeachment. Of course, the number of Justices could be increased.

Mr. KEATING. How did they happen to omit three of those judges; do you know?

Mr. DAVIS. They did not participate in the decisions that were criticized

The CHAIRMAN. They were not on the bench at the time. One, I think, disqualified himself and two did not participate.

Mr. ROGERS. The decision was unanimous, but you have Brennan and Harlan who were not on the Court at the time.

The CHAIRMAN. I think one disqualified himself. No; Warren made it a unanimous decision.

Mr. DAVIS. I do not think they based this resolution in the Georgia Legislature on the school cases. They based it on other cases.

Mr. KEATING. Why didn't they indict Burton? Burton voted for it.

Mr. DAVIS. Mr. Keating, as I said, while I have not read this very carefully, I did scan through it. I don't think this resolution was based on the school cases.

The CHAIRMAN. I think you are right.

Mr. DAVIS. I think it was based on other cases which are set out in the resolution.

The CHAIRMAN. That is correct. I am sorry we had this interlude, but we would like to get your views on that.

Mr. DAVIS. I am certainly glad to have the committee ask me any questions they see fit.

Mr. Chairman and gentlemen, so long as meddling busybodies will leave the whites and Negroes alone in our section, we have peaceful relations. We will live side by side on friendly terms. The Negroes will have unlimited educational opportunities and will progress as fast as they are able to progress. They will fare better with us than they will in the North, and the sensible Negroes know it. Our segregated system keeps down the riots which you have had in Detroit, Chicago, Cicero, and other places when a Negro moves into a white neighborhood. We know the Negro must have a roof over his head, and we help him provide it in his own neighborhoods. If the neighborhood grows and expands, we help him get located in another neighborhood. He does not have to move in a section where he is not wanted and where the white people gather by the thousands and throw rocks through the windows and inflict personal violence upon the occupants.

Both Negroes and whites, when left alone, will voluntarily segregate themselves as to schools, churches, dwellings, and social affairs. This

is demonstrated in Baltimore, where the school pattern is substantially the same as it was before the fraudulent decision of the Supreme Court on May 17, 1954. It is demonstrated by the segregated pattern which is followed in New York City, where the politicians and the meddlers are now trying to bolster up a sagging integrated program by hauling busloads of Negro children from Negro neighborhoods to white schools and vice versa from white neighborhoods and by putting on a program of forced integrated dancing among the pupils as they are doing there.

This tendency of the races to voluntarily segregate themselves is proven here in Washington, where, in spite of all the frantic efforts to force integration of the races in schools, the introduction of Negroes into a white school does not turn it into an integrated school; it turns it into a Negro school within the course of a few years, just as fast as the white people can make arrangements to uproot themselves from the community and reestablish themselves over in Virginia or Maryland, where they are not plagued with this crackpot theory of forced integration. These things are the facts of life, and it is far better to settle them peacefully than it is to push things to the breaking point where law and order breaks down and violent rioting with its tragic consequences takes place.

Mr. Chairman, if the American people are to remain a nation of self-governed people, government must be kept close to the people. There can be no dispute that our Government is a republic of sovereign States. Under our Constitution, control of local affairs is the function of the State. It also guarantees to the citizen right of trial by jury. So long as these two constitutional provisions are respected and carried out, the American people will have self-government and protection of individual liberties and personal rights.

Local government should not be taken from the States and placed in the hands of bureaucrats in Washington. If local self-government is destroyed and if the right of trial by jury is lost, then individual liberty and freedom will surely be lost along with those two constitutional bulwarks.

This legislation is an attempt to overturn those two constitutional provisions. The radicals who want to remake our Government and remake the world know well enough that substitution of judicial dictatorship for trial by jury is a long step toward that objective. This legislation goes hand in glove with such schemes. It is a strong threat to our form of government.

This legislation is also a threat, and a serious one, to law enforcement. The policemen and sheriffs who have the job of protecting the lives, safety, and property of law-abiding citizens, have an extremely difficult task now of coping with the thieves, robbers, yokers, purse snatchers, rapists, and murderers. Even under existing laws, this radical organization, the NAACP, is continually bombarding the FBI, the Attorney General's Department, and other Federal Government agencies with false and unfounded claims that Negro criminals are being manhandled, mistreated, oppressed, and deprived of civil rights.

To illustrate the absurd, ridiculous and unreasonable extent to which these tactics are carried, I want to give you some figures from a statement of the Attorney General introduced by Chairman Celler at a committee hearing before Subcommittee No. 2 of the Judiciary

Committee on July 13, 1955. These figures appear on page 176 of the printed hearings.

In the years for which total number of complaints of alleged civil rights violations were given and total number of cases tried and convictions secured, the figures given by the Attorney General were as follows: In 1940, 8,000 civil rights complaints were received; no figures given as to how many cases prosecuted, or how many convictions secured. In 1942, 8,612 complaints received; prosecutive action taken in 76 cases; no statement as to how many convictions or acquittals. In 1946, 7,229 complaints were received in civil rights and political cases. Fifteen cases were prosecuted, in which five convictions were secured. In 1947, 13,000 complaints were received; 12 cases were prosecuted, of which 4 defendants were convicted. In 1948, 14,500 complaints were received; 20 cases prosecuted; no figures given as to convictions. In that same statement the Attorney General estimated that 15,000 complaints would be received during 1949.

Certainly when a situation exists where 13,000 complaints are filed alleging violations of civil rights, of which 12 were considered worth trying, and of that 12 cases tried 4 convictions were secured, undoubtedly the world's record is broken for the filing of groundless complaints.

Yet these groundless charges, stirred up by the NAACP, 41 percent of whose officers and directors are cited in the records of the House Committee on Un-American Activities as having connection with subversive organizations, caused the harassment and hindrance, and in some cases intimidation, of policemen, sheriffs, prosecuting attorneys, and law enforcement officers all over this country. It cost the taxpayers millions of dollars to process 13,000 groundless complaints. The Department of Justice, according to the testimony of witnesses, maintains in the Federal Bureau of Investigation 172 specialists on civil rights matters, and the Attorney General maintains in his Civil Rights Section 7 civil rights attorneys and 4 other civil rights employees.

While the Attorney General's office is spending millions of dollars of the taxpayers' money on this civil rights foolishness, he is costing the taxpayers of the country other millions of dollars which could be saved if money spent for employees in this useless Civil Rights Section were used to employ attorneys to try cases which are 5 years and more behind in the Tax Division and Court of Claims, cases in which interest is running against the Government, and will finally have to be paid at the rate of $5,000 per day, or nearly $2 million per year. If the Attorney General would use this money which he is wasting fooling with 13,000 groundless civil rights complaints, and hire lawyers to catch up with these untried cases in which interest is running against the Government, these millions of dollars could be saved.

Testimony on this waste of taxpayers' money is found in the statement of Attorney General Brownell on page 56 of the Senate State, Justice, and Commerce Subcommittee hearings on May 10, 1956, and the testimony of Mr. W. E. Burger on page 47 of the State, Justice, and Commerce Subcommittee hearings of the House on March 2, 1953.

One might well ask why the United States Department of Justice would continue year after year to encourage and magnify thousands of groundless complaints, which their experience of 18 years since the

Civil Rights Section was set up in 1939 has demonstrated to be groundless. I think the testimony of Mr. S. A. Andretta, administrative assistant to the Attorney General, on page 149 of the State, Justice, Senate Subcommittee hearings for fiscal 1957, let the cat out of the bag and gives the answer. This is that testimony.

Senator JOHNSON. Mr. Andretta, I want to ask you one or two questions.
I understand that the appropriation carries provision for several lawyers in the Civil Rights Section; is that right? I understand it is seven.
Mr. ANDRETTA. Yes; it is.
Senator JOHNSON. I understand that going back to 1951 you have had the same number.
Mr. ANDRETTA. Yes; the same staff.
Senator JOHNSON. If you were not asking for any additional people in the Civil Rights Section in all these years, 1952, 1953, 1954, 1955, why is it that you are asking for a whole new division in an election year, 1956?
Mr. ANDRETTA. I don't know how to answer that.
Senator JOHNSON. Thank you very much.

Now the same question presents itself with reference to these pending bills. If the 18 years' experience with this Civil Rights Section in the Justice Department shows that as many as 13,000 civil rights complaints will be stirred up and filed in a year, of which all but 4 were groundless, what reason is there for creating a new "Civil Rights Division" which could be done under this legislation?

One reason, I think, is this: Although there are many good law-abiding Negroes in this country, nevertheless the bulk of the crimes of violence are committed by Negroes. The records show it, and there is no escaping the truth of it. This radical organization, the NAACP, under the guise of protecting civil rights, runs to the assistance of Negro criminals and seeks to protect them from the punishment for the crimes they commit. This has been their record.

This pending legislation, if enacted, would tie the hands of the law enforcement officers throughout the country, and would place law-abiding men, women, and children at the mercy of brutal, merciless, hardened criminals.

Much of the crime of this country is committed by dope addicts. A Federal Narcotics Bureau report issued on February 15 shows that 60 percent of the drug addicts in the United States are Negroes, and that news item and that report from the Narcotics Bureau is carried in the Washington papers of February 15, last week. That article and that report says that Negroes represent about 10 percent of the total population, that the Bureau's breakdown gave the figures that 60 percent of the United States drug addicts are Negroes. The breakdown shows white population, 87.8 percent, with 29 percent of the addicts; Mexican, 1.5 percent, and 4 percent of the addicts; Puerto Rican, 0.2 of 1 percent of the population, 5 percent of the addicts. Other races, 0.5 of 1 percent of the population, 2 percent of the addicts.

(The article is as follows:)

SIXTY PERCENT OF UNITED STATES DRUG ADDICTS ARE NEGROES

WASHINGTON, February 15 (AP).—A Narcotics Bureau report that 60 percent of United States drug addicts are Negroes was made public Friday.
Negroes represent about 10 percent of the total population, the report said. It was contained in testimony by Narcotics Commissioner H. J. Anslinger to a House appropriations subcommittee in closed hearing February 4.

The Bureau's breakdown gave these other figures: White population, 87.8 percent of the total, with 29 percent of the addicts; Mexican, 1.5 percent of the population, 4 percent of the addicts; Puerto Rico, 0.2 percent of the population, 5 percent of the addicts; other races, 0.5 percent of the population, 2 percent of the addicts.

Representative Passman (Democrat, Louisiana) said in a statement the analysis was furnished at his request. He commented it shows an extremely one-sided racial distribution of addiction, and he added:

"I think this is significant and should be brought into true perspective, so that the problem may be factually and objectively recognized by the public."

Mr. DAVIS. Here in the city of Washington, the Nation's Capital, where both white and black ought to make the best possible showing, crime records for fiscal year 1955 show that of major crimes committed, 82 percent were committed by Negroes, the figures being 1,947 committed by whites, 9,053 committed by Negroes. The crime records of the Federal Department of Justice show that of 13 Eastern, Northern, and Western States, including Illinois, New Jersey, New York, Ohio, and Pennsylvania, the rate per 100,000 of Negroes in prison on felony charges was 681 percent over whites. The same crime records show that in the 10 Southern States the Negro is a better citizen than his northern counterpart, the rate of Negroes per 100,000 in prison on felony charges there being only 248 percent over the whites.

Law-enforcement officers in every section of this country know that this pending legislation would seriously cripple law enforcement.

On February 1 of this year Police Chief William H. Parker, of Los Angeles, Calif., in speaking to the California Peace Officers' Association, pointed out the danger of this legislation. He told the association that those very bills pending before your subcommittee, being the civil-rights program offered by the Eisenhower administration through Attorney General Brownell, would put the police out of business.

That is not my language. That is the language of Chief Parker, of the Los Angeles Police Force. He further stated that he opposes the proposal to establish a Federal commission to investigate alleged civil-rights violations by local law-enforcement agencies. He declared that such a group, a Federal Civil Rights Commission, would play into the hands of Communists, "who know they cannot bring about a revolution or make advances in the face of a resolute police force."

Gentlemen, the California Peace Officers' Association, after hearing Chief Parker, authorized its executive committee to petition Congress to "look at both sides and beware of legislation which might seriously cripple law enforcement."

(The article is as follows:)

PARKER HITS CIVIL-RIGHTS LEGISLATION—LAW ENFORCEMENT MAY BE HAMPERED, HE TELLS OFFICERS

FRESNO, February 1.—The California Peace Officers' Association, at the urging of Police Chief William H. Parker, of Los Angeles, asks Congress to be careful of any civil-rights legislation which would hamper law-enforcement officers.

The group's action was taken here today. The executive committee was authorized to caution Congress to "look at both sides and beware of legislation which might seriously cripple law enforcement."

San Diego Police Chief Elmer Jansen, association president, said the action will not commit the organization to oppose or support any specific legislation but will state the organization's views.

Parker declared the civil-rights program offered by the Eisenhower administration through Attorney General Herbert Brownell "would put the police out of business."

He said he opposes a proposal to establish a Federal commission to investigate alleged civil-rights violations by local law-enforcement agencies.

Parker declared such a group would play into the hands of Communists "who know they cannot bring about a revolution or make advances in the face of a resolute police force."

Mr. DAVIS. Mr. Chairman, I have only a few more pages. I hate to take your time, but I would not be here at all except that I think this is a serious matter, and very serious legislation. I would not feel that I was doing my duty as a Representative unless I came in here and expressed myself about it. I hope I am not trespassing on your good nature.

The CHAIRMAN. No. I simply want to be sure we will be able to hear all the witnesses who have come. We have witnesses from Arkansas, the attorney general, a former Lieutenant Governor, the representative for Governor Daniels, and, of course, our colleague, Mr. Williams. I do not know how I am going to get through with them all if we allow each man an hour and a half or three-quarters.

Mr. DAVIS. I do not want you to put me out, and I am nearly through. Will you bear with me for 3 or 4 minutes and I will be through?

Mr. Edward Scheidt, motor vehicle commissioner of North Carolina, a former FBI agent for 22 years, has already testified before your subcommittee, and he, with his knowledge and experience has warned that this legislation would be an open invitation to any complainant to circumvent local governmental facilities by dealing directly with Federal authorities merely by claiming that some civil right was in danger of being violated. This would bring law enforcement to a complete halt inasmuch as there is no possibility that the Federal courts can take over and expeditiously handle the trial of State law violations. There are not enough of them, and they do not sit long enough.

There is no necessity for this legislation in order to protect voting rights. Ample law now exists to protect any person from being deprived of his right to vote.

I can cite to you a case tried in Georgia in 1955 which will refute any claim to the contrary. The case was that of *Charlie W. Thornton et al.* v. *C. C. Martin et al., Registrars of Randolph County, Georgia.* It was civil action No. 520 in the United States District Court for the Middle District of Georgia, Columbus division. This is the congressional division so ably represented by my distinguished colleague, Congressman E. L. Forrester.

This suit was brought by nine Negro plaintiffs on behalf of themselves and others who alleged that their names had been illegally removed from the voters' registration list in 1954. A jury verdict was taken in which the allegations of the plaintiff were sustained and $880 damages were awarded to the named plaintiffs. A decree was entered by the court upon the jury verdict in which the registrars were ordered to place the names of 134 Negroes back on the voters list within 10 days of the decree, and the order was complied with.

Mr. MCCULLOCH. I would like to interrupt right there. Was that decree of the court before the election, Judge Davis?

Mr. DAVIS. No, sir; it was after the election.

Mr. McCULLOCH. The complaining voters did not participate in the election?

Mr. DAVIS. They filed their suit in 1954. It was tried in September 1955, and the decree was entered. There was no election pending then. It was before the 1956 election, almost a year. They did vote in the 1956 election.

Mr. McCULLOCH. Were their names stricken from the roles prior to the 1954 election?

Mr. DAVIS. Yes, sir.

Mr. McCULLOCH. And they did not, therefore, participate in the 1954 election.

Mr. DAVIS. No: they did not. The case was not reached for trial by that time. But a decree was entered by the court upon the jury verdict in September 1955, in which the registrars were ordered to place the names of 134 Negroes back on the voters' list within 10 days of the decree and the order was complied with. If there are any other Negroes in Georgia who claim they are illegally deprived of the right to vote, the same remedy under the same law is available to them in the United States District Court just as in the Randolph County case. Being brought under Federal laws, and tried in a Federal court, the same remedy is available to citizens of any State, a fact which is well known to the Attorney General and his civil-rights section.

Mr. Chairman, this legislation is not only dangerous in that it threatens a complete breakdown of law enforcement; it is unconstitutional: it is absurd and ridiculous; and finally, it is unnecessary. I urge this subcommittee to so declare it.

Thank you for the opportunity to appear.

The CHAIRMAN. We are very grateful to you for your contribution. You have given us a well-documented statement and it will be useful.

We are now privileged to hear from our distinguished colleague, Hon. John Bell Williams, Representative from Mississippi.

Mr. McCULLOCH. Does Georgia have a poll tax now, Judge Davis?

Mr. DAVIS. No, sir, and we were not forced to do away with it. We did it voluntarily.

STATEMENT OF HON. JOHN BELL WILLIAMS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. WILLIAMS. Mr. Chairman, members of the subcommittee, for the sake of the record, my name is John Bell Williams. I represent the Fourth Congressional District of the State of Mississippi, a State which has the highest proportion of Negro population of any State in this Union, and which we contend has had more friendship, understanding, and comity between the white and colored races than any other State in this Union.

Mr. Chairman, I am very grateful to the committee for giving me these few minutes before your subcommittee to present my views on the legislation under consideration.

I have been told that this subcommittee was deliberately stacked; that its membership was meticulously screened as to insure a favorable reporting of some kind of bill bearing a civil-rights label.

I have been told, Mr. Chairman, that the holding of hearings on this subject by the subcommittee is merely a perfunctory routine submitted to in order to get around charges that the committee refused opponents of the legislation their day in court.

I have been told that the testimony against this legislation will go in one ear and out the other, that the committee is not interested in facts, arguments, logic, reason, constitutionality, law, right, wrong, or the inevitable effect this bill will have on racial relations or on our form of Government.

The CHAIRMAN. That is a very severe indictment against the Judiciary Committee, and I have to categorically deny that.

Mr. WILLIAMS. Mr. Chairman, please let me proceed. I say I have been told those things, and I have. I have been told that this committee is interested in one thing and one thing only: The garnering of Negro and other minority votes to further your individual political careers or that of your parties. Whether these things that have been told me are true, only you, the members of the subcommittee, know, of course. But I hope that such is not the situation.

I can say to you honestly——

Mr. MCCULLOCH. Mr. Chairman, lest silence be construed as an agreement with the hearsay statements which are extreme, in my opinion, I would like the record to unmistakably show that the person who made those statements to you, so far as I am concerned—and I think so far as all the other members of the subcommittee are concerned—just does not have any factual basis therefor.

Mr. WILLIAMS. I am very happy to hear that, sir.

Mr. MCCULLOCH. I would like the record to show, Mr. Chairman, that not only I but a majority of this committee have been members of this subcommittee for some 4 or 5 or 6 years, and certainly as far as I am concerned, it was stacked neither for nor against any proposed legislation that I saw on the horizon.

Mr. WILLIAMS. I am very happy to hear that. I can say to you honestly that in spite of the exclusion of southerners from your committee, and the inclusion of a predominance of members who have either voted for this kind of legislation in the past or have publicly committed themselves to support it in the future, in spite of previous attempts earlier in these hearings to cut off the hearings after merely scant consideration of the subject matter, in spite of all that, I cannot conceive in my own mind that you good gentlemen have closed your minds entirely on the matter so broad in scope, so revolutionary in character, so ominous in portent, and so vital to the lives of 170 million American people, as to be deaf to the pleas of the minority from our section of the country, who oppose this bill so bitterly.

In my own mind I am satisfied that this committee has not prejudged this case. I hope that you have not and that you are open to reason and logic.

I have greater respect for each of you gentlemen individually and collectively as a committee to believe that you would vote for a bill that does violence to our American system merely in order to satisfy your political needs or those of your respective political parties.

Mr. Chairman, eminent Americans, and able lawyers have testified before your committee against this legislation. Such outstanding Americans as my own distinguished Governor Coleman, himself a distinguished lawyer and former member of the State supreme court.

Our present attorney general, Joe Patterson, the attorneys general of other sovereign States of this Union, the Honorable Charles Bloch, of Georgia, and other leading outstanding lawyers in this country, have demonstrated certainly much clearer and better than I might be able to do the grievous dangers inherent in this legislation. I realize that I can add little to their testimony. I shall not attempt to do so, although I do want to go on record as subscribing to the views they have expressed.

I do not want to burden you with a repetition of what has gone before. So I shall confine my testimony as best I can to matters not previously brought to your attention, so far as I am able to determine.

It is quite evident that this legislation is designed and intended to accomplish one purpose and one purpose only: to force the white people of the Southern States into a state of subservience to the wills, whims, and fancies to any organized minority group that desires to exploit them and to place the full force and power of the Federal establishment at the disposal of these minorities in carrying out their desires. There can be no doubt about the purpose of this legislation. It is aimed directly at the several States of the South.

The commission proposed in this legislation will have as its one sole reason in being, the purpose of harassing southern business, controlling elections in the Southern States, and weakening the sovereignties of the several States, not only in the South, but in all of the States of this Union.

Our colleague, Congressman Powell, probably the most vocal and active of all the present-day advocates of Federal force legislation in the Congress, lifted the chip the other day before your committee and exposed the bug in the legislation. I have reference to his testimony before your committee in which he urged you to amend the "Wilkins-Eisenhower-Brownell bill" so as to take away any jurisdiction the proposed commission might exercise over labor-union policies that would otherwise fall within the civil-rights category.

Also, to make appropriate amendment to exempt current Negro boycotts of transportation companies in the South from being considered as unwarranted economic pressures.

Quite obviously, Representative Powell and those who advocate his peculiar brand of tolerance believe that minority races should be given a monopoly on civil rights and that it is of little consequence that majorities be deprived of their civil rights in the process.

The effect of Representative Powell's suggestion was to lay bare the actual sinister intent behind all of these punitive bills, to punish the white people in the Southern States and to exalt and grant special privileges to the Negro minorities. Unless you follow Representative Powell's suggestion to amend this legislation, and thereby make this bill a completely one-way street leading South, one of the first orders of business for the Commission will have to be an investigation of certain unions and associated liberal organizations in New York City.

In October 1955, according to the labor press, a mass rally sponsored jointly by District 65, Retail Wholesale and Department Store Union, CIO; the National Association for the Advancement of Colored People; and the Jewish Labor Committee, was held, and a crowd of some 20,000 people exhorted to participate in a national boycot of anything that comes from my State of Mississippi. That is a

prime example of unwarranted economic pressure against minorities as well as majorities, because such economic pressure against an entire State works to the detriment of the Negro's interest as well as the white's interest in that State.

Actually, because Mississippi Negroes are the object of this economic pressure, as well as Mississippi whites, we find here a case of a minority in one section of the country exerting economic pressure against a minority in another section of the country.

I might add also that, in the case of the Kohler strike, there is evidence of unwarranted economic pressure. I quote from an article in Human Events under date of February 23, 1957, which was written by Rev. Edward A. Keller, C. S. C., professor of economics, University of Notre Dame:

> Nine Governmet bodies have adopted boycott resolutions against the Kohler Co. The legality of such ordinances is highly questionable because most States require awarding a contract to the lowest bidder. Even if legal, such a loosely worded resolution quoted above should be opposed because it would force every contractor to grant any union demand no matter how unreasonable, if he hopes to obtain a contract from the city.

The footnote here indicates the Government bodies which have adopted boycott resolutions against the Kohler Co. because of the fact that the Kohler Co. is engaged in a labor dispute with organized labor: Lincoln Park, Mich.; River Rouge, Mich.; Bristol, Conn.; New Britain, Conn.; Massachusetts House of Representatives; Boston, Mass.; Lynn, Mass.; Worcester, Mass.; and Los Angeles County, Calif. Others were passed in other cities and subsequently repealed.

Mr. McCULLOCH. Did I understand you to say that the House of Representatives of the State of Massachusetts has adopted such a resolution?

Mr. WILLIAMS. According to Human Events. According to the information that I have in front of me, and I cite it as my authority.

The CHAIRMAN. Where is that paper published?

Mr. WILLIAMS. It is a publication published weekly at 1835 K Street NW., Washington 6, D. C., copyright 1957, by Human Events, Inc. Human Events, according to this, was founded in 1944 by Frank C. Hannigan. It is published weekly at 1835 K Street NW., Washington 6, D. C., and reports from Washington on politics, business, labor, and taxes. It is usually published in 2 parts: 4-page news section and 4-page business articles. It is published at $10 a year.

The CHAIRMAN. Did they wrangle $10 out of you?

Mr. WILLIAMS. No. All of us get it complimentary. This comes into your office, too, but it is a conservative publication.

Mr. ROGERS. They send it to all Members.

Mr. WILLIAMS. Mr. Chairman, if such a commission is established as contemplated in this bill, this Commission will be swamped with allegations calling for investigations of civil-rights violations. Quite obviously, it may be expected that this Commission will be staffed with members cleared with the NAACP and their affiliates, for that is the very purpose of setting up the Commission. This means, of course, that Roy Wilkins and the NAACP board of directors will run the whole show, having for themselves a field day in persecuting the white citizens of the Southern States.

I might remind you, though, Mr. Chairman, that all this will not be a one-way street. There will be at least one lane of traffic going

in the opposite direction, and its flow may be even faster than that going south. Remember, it requires nothing more than an allegation to start the investigative machinery of this Commission to moving.

We in the South are ready even now to furnish enough allegations of discrimination to keep the Commission busy for the next 10 or 12 thousand years. Judge Davis mentioned a few in his testimony preceding me.

Under this bill, for instance, we southerners, if you give us the same right the NAACP has under this legislation, will even be able to intercede in behalf of the Negroes who cannot live in Dearborn, Mich., because they have laws against Negroes living there, according to their mayor.

The same holds true for Brookville, Oak Park, Cicero, Ill., and numerous towns and villages on the outskirts of Philadelphia, New York City, and other large metropolitan areas in the North and East.

We can intercede and bring suit on behalf of the woman whose Negro husband was lynched the other day in Boston, Mass., by a gang of white hoodlums, either in or near the district represented by our distinguished majority leader.

We can intercede on behalf of the white or Negro children, depending on whom we prefer to persecute, for the monstrous race riot on Lake Erie just outside of Buffalo, N. Y., about a year ago.

We could intercede on behalf of the Negro convicts in the penitentiaries of New York State because the people of New York State send three times as many Negroes to the penitentiary in proportion to their overall Negro population as we do in Mississippi.

We could intercede to determine why Mrs. Roosevelt apparently discriminated against white people when she fired all of her white staff employees at the White House and replaced them with an all-Negro staff. Surely the Commission would not be willing to accept the logical reasoning that she assigned for such action: to the effect that employees of the same race work better together. That makes sense and naturally the Commission would not accept that.

We could intercede in behalf of Ethel Watkins, of 12356 Cherry Lawn Street, Detroit, Mich., because her presence in a white neighborhood has been causing anti-Negro demonstrations nightly for sometime, according to an AP story of February 21 appearing in the Washington Star on the same day.

We could intercede on behalf of anyone or everyone who applies unsuccessfully for a job on your respective congressional staffs, inasmuch as it requires only an allegation that you are discriminating on account of race and not necessarily a sworn charge.

Enact this legislation, and I can assure you that we in the South will keep this Commission so busy investigating the evils in your own backyards that they will not have time to get south of the Potomac River. In fact this so-called Commission is potentially such a vehicle for proving the virtue of our southern social institutions that if it were not for its patent unconstitutionality, its obvious assault on States rights and its questionable parentage, I might even be inclined to modify my opposition to it.

Mr. Chairman, Mr. Keating asked Judge Davis a few moments ago the question, if his recounting of these incidents of violence which had occurred in the States of New York, Michigan, Illinois, and other

States, did not prove the point that we need legislation to take care of it.

Mr. Chairman, the States of New York, Michigan, and Illinois, to name three, as I understand it, already have these force laws on their statute books and yet these crimes continue. I cannot see any reason to compound that felony by adding a Federal statute to the books which cannot be enforced any more than your State laws can be enforced.

The CHAIRMAN. Of course, we have laws against murder, but murders continue. That is a specious argument.

Mr. WILLIAMS. That is quite true, Mr. Chairman. But by the same token, a law is not going to correct the situation here, either.

According to authoritative sources, about 40 lynchings have occurred in the United States since 1938, and none from the period of 1951 until a few days ago. The latest one occurred in Boston, Mass., a couple of weeks ago. Even so, I have heard no one suggest that the FBI be dispatched to Boston to investigate that outrage. In fact, the Washington Post, which always devotes screaming headlines even to the most minor and insignificant racial disorder in the South almost forgot to print the news of the lynching in Boston, Mass.

However, it did find its way, I presume accidentally, into the Post, reported on page 4 of the second section on Sunday, February 17, 1957. Mr. Chairman, here is where it was reported in the Washington Post; here is the clipping.

Mr. ROGERS. Did she not say they were not colored?

Mr. WILLIAMS. May I read this article from the Washington Post, and I might remind you the Washington Post has no love for anybody or anything southern.

BOSTON, MASS, February 16 (UP).—Two white men kicked and beat a colored man to death today. The victim's pregnant white wife, who was the object of a "poor white trash" insult that started the fight said, "It was more terrible than a lynching."

The 26-year old once divorced mother of 4 told police that 2 other white men held her arms while their white companion stomped the life out of her husband.

"We were going home from a Southend cafe when these men yelled 'poor white trash' at me. My husband went across the street and the fight started. They argued for a minute, but I could not understand what they said. Two started to beat my husband up, and when I went over to help, two held me by the arms."

Screams finally attracted help, but the four men fled in an automobile. Rose, who was taken to the hospital, was pronounced dead. Police said the victim was a Negro. Mr. Rose, at the home of a friend said, "No, no, he is not a Negro, he is a colored Portuguese."

Does that answer the gentleman's question whether he was a Negro or not?

Mr. ROGERS. I remember the article.

Mr. WILLIAMS. Let us assume he is a colored Portuguese. He is still a member of the minority.

The NAACP said they were sure—

that police will make every effort to avoid criticism such as was leveled at the State of Mississippi in the Emmet Till case.

They even had to ring in the Till case to get a slap at Mississippi, about an event that happened in Boston.

Till was slain for alleged remarks to the wife of a Mississippi storekeeper. Two white men were cleared.

Rose was employed as a superintendent of a building. He was a former resident of Wareham, Mass. By a former marriage he had four children—

And so forth.

Mr. Chairman, that is the story on the Boston affair.

I checked the Boston papers, incidentally, to find out how outraged they must be about the lynching in their own domain and if they carried the story at all I could not find it.

The CHAIRMAN. Would you call that a lynching?

Mr. WILLIAMS. Mr. Chairman, what is your definition of a lynching?

The CHAIRMAN. I think it involves mob violence.

Mr. WILLIAMS. Mr. Chairman, every bill that has been introduced calls a mob two or more.

The CHAIRMAN. Yes; it does.

Mr. WILLIAMS. In this case there were four, Mr. Chairman.

The CHAIRMAN. I think two.

Mr. WILLIAMS. Two held the lady and two beat him up and killed him. It fits the definition carried in all the antilynching bills.

As I say I checked the Boston papers to see just how outraged the Boston Herald and the Post and other papers would be about this lynching that occurred in their own backyard. They usually rise up in righteous anger if one occurs in Mississippi. If they printed the story at all I could not find it.

However, several days later, I did receive through the mail a clipping taken from the Boston Herald under date of Monday, February 18, 1957, showing that it was clipped from page 9 of the Boston Herald, in which it states that two have been arrested in the Back Bay fatal beating. It goes on to tell the story very much as it was related in the Washington Post. It gives the names of the men who had been arrested, but makes no mention of the fact that the victim was a colored man, or that the men arrested were white men. From this report, no one could tell this was a racial incident.

I can assure you, though, that our Mississippi papers, tired of seeing our State made the butt of every journalistic smear artist in the United gave the Boston story the full front page treatment it deserved.

Even in your own enlightened and integrated New York City the other day, an incident occurred that had all the earmarks of a lynching. Under the definition usually applied to the crime by our self-styled liberal friends, of course, this incident was relegated to the obscurity of inside pages by the northern press, as they usually handle such matters when they occur outside of the South.

Of course, it is entirely possible that it is just a dog bites man proposition up there, whereas down South it is a man bites dog, because it so seldom happens down South. I quote briefly from an Associated Press dispatch datelined New York City, February 17:

Two 17-year-old boys who thought they were insulted because they were Negroes were held on homicide charges today Police say the boys were walking along the street in Far Rockaway——

The CHAIRMAN. It is in my district.

Mr. WILLIAMS. I am sure you did not see this in the paper. You ought to read the Mississippi papers, Mr. Chairman.

Two men, also of Far Rockaway, stepped out of the doorway and spat on the sidewalk near them They interpreted this as a racial slur and a fight started.

That was the entire release put out by the wire service.

Enact this legislation, Mr. Chairman, and we of the South could intercede to have Mr. Brownell's commission investigate that, too.

While lynchings have become virtually extinct, a new form of violence against civil rights has arisen.

The CHAIRMAN. At least in my district they apprehended the criminals; did they not?

Mr. WILLIAMS. Mr. Chairman, there are very few cases where we fail to apprehend the criminal.

The CHAIRMAN. I am saying that at least in my district they did arrest the malefactors.

Mr. WILLIAMS. I can't say that these boys were guilty. They have arrested two suspects. I cannot say that these boys are guilty until they are tried by a jury of 12 men and found guilty. But they have arrested two suspects.

Today, infinitely more people are killed in labor disputes than in lynchings. These killings arise out of the denial of a fundamental civil right, the right to work and earn an honest living. Although we have a Bureau of Labor Statistics which keeps statistical data on everything dealing with labor matters from the cost of a loaf of bread to the price of soap used in laundering a steeplejack's shirt, the Department of Labor studiously avoids the keeping of records of people killed or injured in violence arising from labor disputes.

However, from a compilation taken from newspaper clippings and furnished me by the Library of Congress, it is estimated that at least 100 deaths have occurred in labor disputes since 1938 in that same period of time.

While I believe that murder prosecutions are exclusively within the jurisdictional realm of the several States and would not advocate a Federal law to bring these labor killings under Federal jurisdiction, at the same time it seems rather odd to me that those who profess such a burning interest in Federal civil-rights legislation have not only failed to introduce legislation to protect the lives of these people; but rather, have consistently fought against the consideration of such measures.

Thus far I have heard no one mention the matter of how this legislation will affect the makeup of civic and fraternal organizations. In New York City, for instance, hundreds of all white Rotary Clubs, Kiwanis, and such other organizations could not enroll Negro members. Perhaps this will also become the subject of an investigation by the Civil Rights Commission.

What about the B'nai B'rith, or the Knights of Columbus organizations which presently, I understand, limit their membership to persons of a single creed or race or national origin?

The CHAIRMAN. Those are religious organizations, having for their purpose the advancement of religious causes. You would not want a mixture there, would you?

Mr. WILLIAMS. Mr. Chairman, the Democratic Party in Mississippi is a political organization also. Is there much difference between restricting the membership in a political organization or a fraternal or religious organization?

The CHAIRMAN. A big difference.

Mr. WILLIAMS. Would I, as a Baptist of Scotch, Irish, Welch lineage, and others, suffer discrimination upon being denied membership

in the B'nai B'rith? Are you not discriminating against me by refusing me admission on the grounds of my religion? Could I not require the Commission to investigate such a denial of what is loosely termed a civil right under this bill?

What about country clubs?

I will not burden you with a discussion of the various parts of this bill section by section. By this time if you are not aware of the viciousness of the bill's content, surely nothing I can say would enlighten you because more able men than I have testified about it already.

Incidentally, Mr. Chairman, I would like to read to you excerpts from an editorial that appeared in yesterday's New York Times, dealing with the Indian problem.

Much has been heard about rapid termination of Federal responsibility for the Indians. Congress even passed a resolution encouraging it. As it turns out, that resolution was unwise, and it ought to be repealed.

This is the great spokesman for all the liberals and civil rights people in this country, Mr. Chairman, the New York Times.

The Federal Government cannot fail to escape its deep moral responsibility for America's 454,000 Indians. The administration is behind the point 4 program for American Indians, which seems to us an approach infinitely better than those which has characterized both administrations and Congress in recent years.

Listen to this:

There is no sense in trying to pretend that most Indians are ready for immediate integration into the white man's life.

This is the great New York Times.

They are not and they need and deserve the kind of help and protection that only the Federal Government can give.

That is the kind of crackpot inconsistency that characterizes so many of our liberal friends who are advocating this kind of legislation. They will say that the Negro is ready and the Indian is not. At the same time they will say there is no difference between people on the basis of race except the color of the skin.

This bill has much to say about the so-called right to vote and apparently accepts the privilege of franchize as a civil right. Just what is a civil right?

In Kent's commentaries, there is the definition of civil rights as—

the right of personal security, the right of personal liberty, and the right to acquire and enjoy property. Right itself, in a civil suit, is that which any man is entitled to have, or to do, or to require from others, within the limits of prescribed law.

Bouvier's Law Dictionary is very concise in the definition:

Civil rights are those which have no relation to the establishment, support, or management of government.

Black's Law Dictionary says:

Civil rights are such as belong to every citizen of the State or country or, in a wider sense, to all its inhabitants, and are not connected with the administration or organization of government. They include the rights of property, marriage, protection of the laws, freedom of contract, trial by jury, and so forth.

If the right to vote is an inherent civil right of the American people, then it must be conferred on all our people without restriction for any reason, whether it be age, failure to register, or what have you.

Otherwise it is a conferred privilege and not a right. The fact that the Constitution gives the States the power to prescribe the qualifications of their electors, and did not require the granting of universal suffrage without restriction, of necessity removes the privilege of voting from the category of being an inherent civil right.

It is true, of course, that once a person has complied with the requirements of his State laws and becomes in fact a qualified elector, he has attained the right to vote. But this right is a political right and not a civil right. It cannot be denied to him because of race, color, or previous condition of servitude. Until a person meets the requirements of the voting criteria in his State he obviously can lay no claim to having a right to vote so long as the requirements are assessed against all people alike.

This legislation secures no civil rights to anyone. I would suggest that if it must be done by Federal action, a better way to secure civil rights would be to cast aside the monster now under consideration and amend section 1985, title 42, of the code to provide recovery of damages—

if two or more persons in any State or Territory conspire to deprive any person of the right of personal safety, security, and liberty and the full enjoyment of his property without interference or molestation.

Even this would hardly be constitutional, inasmuch as it would invade the reserve powers of the States but it would be no less unconstitutional than the Wilkins-Brownell-Eisenhower bill now under consideration, and it would at least be directed toward securing real and genuine civil rights. I am quite sure that present advocates of civil-rights legislation would find that kind of amendment quite unacceptable to them. If it were enacted into law the NAACP and its captive Attorney General, Mr. Brownell—and I say that advisedly—would be in here the next day demanding its repeal.

If such legislation passed, every criminal in the country could face a lawsuit at the hands of the United States Attorney General on behalf of the aggrieved or injured party or parties.

The other portion of this bill is nothing more than an abortive effect to break down the States of this Union and promote an absolute central government paralleling state socialism.

Every sentence of this bill would deprive the States of the powers reserved to them under the 10th amendment and would allocate those powers to the Federal Government. The 10th amendment of the Constitution is still a part of the Bill of Rights and, according to Jefferson's evaluation, by far the most important. The section of the bill creating a division in the Justice Department to deal with civil-rights cases is wholly unjustified. It would only give the most political-minded member of the Cabinet added prestige to enter into fields in which he has no business.

For several years the Attorney General has used the powers of his office to intimidate and harass public law-enforcement officers in the Southern States.

The CHAIRMAN. You forget there is another amendment called the 14th amendment which provides that when a State denies the right to vote in any national election, its representation in the House shall be reduced accordingly.

Mr. WILLIAMS. I understand that, Mr. Chairman. Do you know of any States that have denied the right to vote to any qualified citizen?

The CHAIRMAN. We have had quite a lot of evidence during the hearings with reference thereto.

Mr. WILLIAMS. Do you have evidence or allegation?

The CHAIRMAN. Evidence.

Mr. WILLIAMS. Do you have sworn evidence?

The CHAIRMAN. Yes, sir. There is a letter we have here which is signed by Mr. Olney which clearly shows in various counties and parishes attempts made to deprive certain elements of the population of the right to vote.

Mr. WILLIAMS. Mr. Chairman, I doubt seriously the authenticity of that. I doubt seriously the truthfulness of it. I am not speaking of the chairman, but the papers that he has dicussed.

The CHAIRMAN. It is a long letter detailing the instances, particularly in Louisiana. I do not want to take time to read it now, but it can be put in the record. It clearly and succinctly indicates efforts that have been made, and rather successfully, to deprive Negroes of their rights to vote in many of the counties and parishes of the State of Louisiana.

There have been other evidences in connection with other States.

Mr. WILLIAMS. I do not know a thing about those charges, of course. I am quite sure if the committee will check they will find that whatever action the State of Louisiana took, or the officials of the State of Louisiana took, in that case, that it was equally assessed against the white voter as well as the colored voter.

Mr. KEATING. No. That is not even claimed by the attorney general of Louisiana. He concedes that 3,000 Negroes were taken off the rolls. But he contended that 99 percent of them were put back. It develops now that he was quite inaccurate in his statement. Even those who were put back were put back after the Attorney General got into the matter.

Mr. WILLIAMS. I might say here, as I read the present law, any person who was forced off the rolls in Louisiana for the reason of his race already has a cause of action under the present law without the need for a change in the law.

The CHAIRMAN. It must be a conspiracy.

Mr. KEATING. He has the right of action for damages if there is a conspiracy.

The CHAIRMAN. He must satisfy the administrative remedies first.

Mr. WILLIAMS. He has a Federal action.

The CHAIRMAN. Only after he satisfies the administrative remedy. That is rather difficult.

Mr. WILLIAMS. I know nothing about the Louisiana case, but for several years the Attorney General has used the powers of his office to harass and intimidate law enforcement officers in Southern States. I say that categorically. It has become so bad that our local law enforcement officers advise me that they are afraid to arrest Negroes on warrants for fear that false allegation of mistreatment would result in FBI investigations of elleged crimes violating the civil-rights statutes.

For the past several weeks there have been a swarm of FBI agents in Mississippi harassing local officers and hampering the enforcement

of Mississippi laws. Other cities have had sad experiences in their attempts to arrest and convict Negroes of crimes.

At this point, Mr. Chairman, I will not read this, but I would like to insert an editorial dealing with this subject, taken from the McComb Enterprise-Journal, Wednesday, February 13, 1957, in which it quotes Time magazine's crime figures.

The CHAIRMAN. You have that permission.

(The information referred to is as follows:)

[From McComb (Miss.) Enterprise-Journal, February 13, 1957]

HOW LOW CAN PUBLIC OFFICIALS GET?

The most amazing thing we have read in many moons is the report which Time magazine has made concerning crime in the big cities of the North. Says Time, "The most ticklish law-enforcement fact in many a big northern city is that the crime rate among Negroes is far higher than that of any other segment of the population—and few elected officials want to antagonize the vote-conscious Negroes by saying so."

Time, of course, is in the same category of the elected officials referred to but this does not alter the immensity of this comment on the officials of these cities. Imagine crimes of rape, robbery, violence, and yet officials fear doing something about it. This comment in Time suggests official cowardice, criminal neglect, and political degradation. Time says further:

"None (the elected officials) knew this better than the unhappy city fathers of Kansas City, Mo., who, during the first 3 weeks of 1957, saw the number of armed robberies, burglaries, and thefts run 40 percent beyond the 1956 rate, while 4 out of 5 robbery victims reported that the holdup men were Negroes. One day last fortnight, seven Negro businessmen called on Kansas City's Police Chief Bernard Brannon, to complain that robberies and burglaries in the Negro district were threatening to put them out of business. Suddenly, Chief Brannon thought he saw his chance.

"How would Negro leaders react if the police staged a mass raid on Negro nightspots to round up suspects? asked Brannon tentatively. To his surprise, the businessmen assured him that they would speak up to defend the police if the Negro community raised an outcry. A few nights later, in Kansas City's biggest police raid since 1941, 9 teams of detectives—with at least 1 Negro cop on each team—stormed into Negro district bars, restaurants, pool halls, night-clubs. Three paddy wagons shuttled back and forth for 3 hours, hauling 276 men and 3 women to headquarters for questioning. The police released most of the suspects that night or the next day, but held 50 on assorted charges from shop-lifting to narcotics peddling. Acting on tips from men arrested in the raid, the cops jailed another score of suspects, including holdup men who had pulled off 49 known robberies within the previous 2 months.

"Last week, in the wake of the big raid, top police officials met for 2 hours with 16 Negro civic leaders Far from sizzling with outrage, the Negroes saw some justification for the raid; several agreed to help set up a permanent committee to advise the police on combating Negro crime. 'The feeling,' said 1 of the 16, 'is more relief than criticism.'"

It is interesting to observe that it is the people of areas such as the ones above described who are advocating civil-rights legislation and who urge mass voting for our Negro people.

Time presents some figures on Negro crimes which should stimulate the finest leadership among our Negroes to think earnestly on the subject. The figures are presented as follows:

"In 1,477 United States cities. Negroes, making up an average of 11 percent of the population, accounted in 1955 for an average 35 percent of the arrests for what the FBI calls 'major crimes' (homicide, rape, aggravated assault, robbery, burglary, theft), and 57 percent of the arrests for crimes involving violence or threat of bodily harm."

But this is not the whole story. If officials are afraid to make arrests in Negro areas then think of how many are not arrested. If this political cowardice is reflected in the actual arrests then consider the situation in Kansas City where many crimes have been winked at or overlooked completely.

Mr. WILLIAMS. Also at this point, Mr. Chairman, I would like to bring up a matter in which I want to correct some misinformation that has been given to this committee by a previous witness. I quote from the testimony of one Clarence Mitchell of Washington, D. C..

I would like to offer, too, Mr. Chairman the affidavit of Mrs. Beatrice Young, as well as the doctor's statement of W E Miller.

This is an incredible demonstration of police brutality in which this expectant mother, who has four other children, asked a person who came to her home whether he had a warrant. He broke the door down, beat her severely, took her to jail, beat her again, along with the jailer.

When she said there was an injury to her head which she would like to have protected, for she feared blows would make it worse, they asked her to point out the spot, and then hit her with great force right on that spot.

She was so brutally beaten that she lost her child, which the doctor's statement will support.

That is the testimony of Clarence Mitchell. Along with that, Mr. Chairman, he inserted an affidavit purportedly signed by this colored woman, Beatrice Young, also one by this Negro doctor, W. E. Miller.

I would like to tell you, Mr. Chairman, what actually happened in that case. I have in front of me affidavits of the deputy sheriff who made the arrest; affidavit of the jailer who was present when this woman was brought in to jail; and affidavit of James Etta Jackson, the woman's sister on whose charge the warrant was issued in the first place, and an affidavit from the Negro lawyer representing the sister of the woman who alleges to have had her civil rights violated. Also, I have photostatic copies of the affidavits of James Etta Jackson, the sister of Beatrice Young, on which a bench warrant was issued. I have a copy of that. That was the basis for the sheriff's attempt to arrest this Negro woman.

Mr. Chairman, I am almost through. I realize the bells have rung.

Mr. KEATING. I might say that the House has adjourned.

Mr. WILLIAMS. I will not take much more time.

Mr. KEATING. I do not want to interfere with the chairman's efforts to expedite these hearings but I think you ought to know that.

Mr. WILLIAMS. This is so important and this is so typical, Mr. Chairman, of the kind of lies and libels and slander being leveled against the State of Mississippi and its good people every day, that I feel I ought to read it to this committee. This is the affidavit of the deputy sheriff, A. L. Hopkins, sworn to and subscribed before the circuit clerk of Hinds County.

STATE OF MISSISSIPPI,
County of Hinds:

Personally came and appeared before me the undersigned authority in and for the jurisdiction aforesaid, A. L. Hopkins, who having been first duly sworn by me on his oath says:

On the 26th day of November 1956, James Etta Jackson, a colored female of 5544 Gault Street, Jackson, Miss., came to the chief deputy sheriff's office located in the Hinds County Courthouse, Jackson, Miss., and asked for assistance in locating and returning her 16-year-old daughter, Mildred Magee, to her home.

James Etta Jackson stated that on the night of November 25, 1956, she found her daughter, Mildred Magee, in a beer tavern, demanded that she leave and accompany her home which Mildred Magee refused to do and it became necessary for James Etta Jackson to "frail" the said Mildred Magee. James Etta Jackson then reported that her daughter then accompanied her to her home but later that evening ran away and returned early the morning of November 26, 1956, while James Etta Jackson was absent from home and took most of her wearing apparel.

James Etta Jackson stated that she attempted to locate her daughter and ascertained that she was at the home of her aunt, Beatrice Young, 525 Campbell Street, Jackson, Miss.

James Etta Jackson further stated that she had contacted her sister, Beatrice Young, in an attempt to ascertain if Mildred Magee was hiding in her home. According to James Etta Jackson, Beatrice Young denied that Mildred Magee was or had been at this residence but further stated that "if she were there that she would not reveal this information to James Etta Jackson because she felt that Mildred Magee was being mistreated at home." After ascertaining from James Etta Jackson that she had sufficient information that her daughter had taken refuge in the home of Beatrice Young and that Beatrice Young was planning to send this juvenile girl to St. Louis, Mo., against the will and wishes of her mother, I then called Beatrice Young by telephone (5-5584), identified myself and explained to her that her sister, James Etta Jackson, was in my office requesting assistance in locating her daughter, Mildred Magee. I was informed by Beatrice Young that Mildred Magee was not at her residence and had not been there that day. She further informed me that she would not reveal the whereabouts of Mildred Magee if she knew where she was. She then informed me that I was welcome to come to her house and satisfy myself that Mildred Magee was not there. She further informed me that she was employed by an attorney—that she "knew the law and you god damn sure better not come out here without a search warrant." She then terminated the conversation by hanging up the receiver.

I then explained to James Etta Jackson that I had no jurisdiction to go into the home of Beatrice Young without a warrant for her arrest or without a search warrant for her home. She then asked where she could go to sign the necessary papers and was told that it would be necessary for her to sign them before a justice of the peace.

Judge James Barlow was contacted by public service and requested to wait in his office until James Etta Jackson arrived to sign an affidavit against her sister, Beatrice Young.

Sheriff Albert Jones and I, accompanied by James Etta Jackson, proceeded to Judge James L. Barlow's office, 400 West Capitol Street, Jackson, Miss., where James Etta Jackson signed an affidavit against Beatrice Young for contributing to the delinquency of a minor. Judge Barlow then issued the warrant and Sheriff Jones and I proceeded to the home of Beatrice Young at 525 Campbell Street, Jackson, Miss.

Constable Allen Ray Moore of the first district of Hinds County led us to this address as we were unfamiliar with this section of the city. Upon arriving at the home of Beatrice Young, I knocked on the door, and a colored woman came to the door and without unlocking the door said, "Who is it?" I advised her that it was the sheriff and a deputy. She then unlocked and opened the door and said, "Have you got a search warrant?" to which I replied, "I do not have a search warrant but I do have a warrant for your arrest" (the sheriff, Constable Moore, and I had already stepped inside the living room at this time). She said, "Well, go ahead and arrest, you god damn white son-of-a-bitch" and struck at me with her fist. At this time Beatrice Young was restrained by me. She was not struck or beaten. She was then accompanied to the sheriff's automobile by the Sheriff Jones and me and brought to the Hinds County Jail. The allegation that the door to this residence was broken down, that Beatrice Young was beaten or mistreated in any way is not based on facts. She was restrained after being placed under arrest, brought to the Hinds County Jail, booked in the proper manner, and incarcerated.

Upon arriving at the Hinds County Courthouse, Sheriff Jones accompanied Beatrice Young and me to the fifth floor of the courthouse which houses the jail. He then returned to his office, and Beatrice Young was booked on the jail docket at 6 p. m. and placed in a cell on the fourth floor of the jail where she remained until the following day when her husband made arrangements for her release.

Beatrice Young entered pleas of guilty on November 27, 1956, to contributing to the delinquency of a minor and to resisting arrest. After entering these pleas, she paid a fine in Judge Barlow's court and was released.

At no time did Beatrice Young state to me or to anyone else in my presence that she was pregnant nor did she appear to be pregnant. Neither did she state that there was a previous injury to her head or to any other part of her body.

This the 19th day of February 1957.

A. L. HOPKINS, C. C. D. S.

Sworn to and subscribed before me this the 19th day of February 1957.

[CIRCUIT COURT SEAL]

H. T. ASHFORD, Jr.,
Circuit Clerk, Hinds County.
By JOE D. SHARP,
Deputy Clerk.

Mr. WILLIAMS. Mr. Chairman, the affidavit of the jailer to show that no physical violence was perpetrated against this woman during the time she was in jail:

(The affidavit is as follows:)

STATE OF MISSISSIPPI,
County of Hinds:

Personally came and appeared before me the undersigned authority in and for the jurisdiction aforesaid, John Clifton Broome, who having been first duly sworn by me on his oath says:

At approximately 6 p m., November 26, 1956, Chief Deputy Sheriff A. L. Hopkins and Sheriff Albert Jones brought a colored female to the Hinds County jail where I was employed as relief jailer. This colored female identified herself as Beatrice Young, of Jackson, Miss She was booked into the jail on a charge of contributing to the delinquency of a minor and for resisting arrest. Sheriff Jones did not remain on the fifth floor of the courthouse while this subject was being booked

Beatrice Young was unruly when she arrived at the jail and it took some time to get the necessary information from her in order to book her At no time was she mistreated, beaten, or abused in my presence While she was being booked, she did run toward a large window on the south side of the building and Mr Hopkins thought that she might be trying to jump through the window and he grabbed her by the arm and held her. Since this woman had already resisted arrest, I asked Mr. Hopkins for safety's sake to go with me to place her in the cell on the fourth floor, which he did We placed her in the cell and Mr. Hopkins left and it was about 5 or 10 minutes from the time he got to the jail with this woman until he left

This the 19th day of February 1957.

JOHN CLIFTON BROOME.

Sworn to and subscribed before me this 19th day of February 1957.

[SEAL]

H. T ASHFORD, Jr
Circuit Clerk, Hinds County, Miss.
By BEN S. LOWRY.

Mr. WILLIAMS. Another affidavit signed by James Etta Jackson, sister of the woman who alleges she had her civil-rights violated, stating that the facts and things alleged so far as she knows in the sheriff's statement are true and correct as stated:

(The affidavit is as follows:)

STATE OF MISSISSIPPI,
County of Hinds:

Personally came and appeared before me the undersigned authority in and for the jurisdiction aforesaid, James Etta Jackson, who having been first duly sworn by me on her oath says:

Upon advice of my attorney, Sidney R. Tharp, I would like to state that this statement is being made freely and voluntarily, that I have not been promised anything for making this statement or given anything for making it, mistreated or threatened in any way.

On the 26th day of November 1956, I came down to the sheriff's office and explained that my 16-year-old daughter, Mildred McGee, was at my sister's house, Beatrice Young, 525 Campbell Street, Jackson, Miss. I asked Mr. Andy Hopkins, chief criminal deputy sheriff, Hinds County, Miss., would he go out to Bea's and get the child for me. He told me that he thought he could call her

and she would let the child come home. He did call but I don't know what she said to him but he said he would have to have a paper signed to go out there and I went down to the judge's office with Mr. Hopkins to sign the warrant. Then they went on out to Bea's house and I got a cab and went home.

They didn't find her there but the next day I located her at one of Bea's friend's home. I called Mr. Hopkins again and asked him would he go out there and get her. He said he would but I couldn't give him the address so I went with him and showed him where it was. There was another deputy sheriff with us—I don't know his name. That was where I found Mildred.

I came back to the county courthouse with them and Mr. Hopkins called Judge Horton to see what to do with Mildred and Judge Horton told them to keep her until Mr. Osborne returned to town. (Mr. Osborne is the county juvenile officer.)

On Thursday Mr. Osborne was back and he called me and asked me to meet him at the courthouse Friday morning at 8 o'clock which I did. He talked to Mildred and I together and he talked to us separately.

We had court on Friday and Mr. Osborne released Mildred to me and she's at home doing fine and back in school. That was all.

This the 19th day of February 1957.

JAMES ETTA JACKSON.

Sworn to and subscribed before me this the 19th day of February 1957.

[SEAL] H L. ASHFORD, Jr., *Circuit Clerk,*
Hinds County.
By JOE D. SHAY.

Mr. WILLIAMS. Here is the affidavit of Sidney R. Tharp, a Negro attorney of the city of Jackson, Miss., who represented the sister who filed the affidavit originally. He states that he has examined the general affidavit filed by his client, James Etta Jackson, and in his opinion it is a good and valid affidavit. He further stated that he was present in the sheriff's office when his client gave a statement of fact to the officer of Hinds County, Miss.

(The affidavit is as follows:)

STATE OF MISSISSIPPI,
County of Hinds:

Personally came and appeared before me the undersigned authority in and for the jurisdiction aforesaid, Sidney R. Tharp, who, having been first duly sworn by me, on his oath says:

I, Sidney R. Tharp, of Jackson, Miss., a member of the Mississippi State Bar and a member of the colored race, do hereby state upon my oath that I have examined the general affidavit signed by my client, James Etta Jackson, on the 26th day of November 1956, and it is my opinion that it is a good and valid affidavit under the laws of the State of Mississippi.

I further state that I was present in the sheriff's office of Hinds County, Miss., on the 18th day of February 1957 when my client, James Etta Jackson, gave a statement of fact to an officer of Hinds County, Miss.

This the 19th day of February 1957.

SIDNEY R. THARP, *Attorney*

Sworn to and subscribed before me this the 19th day of February 1957.

H. T. ASHFORD, Jr.,
Circuit Clerk, Hinds County.
[SEAL] By JOE D. SHARP,
Deputy Clerk.

Mr. WILLIAMS. Mr. Chairman, I would like to have included in the record, also, the bench warrant, signed by James L. Barlow, justice of the peace, and the general affidavit, signed by James Etta Jackson.

(The documents are as follows:)

BENCH WARRANT

STATE OF MISSISSIPPI,
Hinds County:

To Any Lawful Officer of Hinds County:

We command you forthwith to take the body of Beatrice Young and bring her before the undersigned, a justice of the peace of said county, in justice's district No. I, to answer to the State of Mississippi on a charge of contributing to delinquency of a minor (Code 2053).

Witness my hand this 26th day of November 1956.

JAMES L. BARLOW,
Justice of the Peace.

400 West Capitol Street, Jackson, MISS. Telephone 4-2062.

[Endorsement]

BENCH WARRANT, BEATRICE YOUNG

STATE OF MISSISSIPPI,
County of Hinds:

Executed and in custody this 26th day of November 1956.

ALBERT JONES,
Sheriff.
By A. L. HOPKINS,
Deputy Sheriff.

GENERAL AFFIDAVIT

THE STATE OF MISSISSIPPI,
Hinds County:

Before me, James L Barlow, a justice of the peace of said county, in justice district No. 1, James Etta Jackson makes affidavit that Beatrice Young on or about November 24, 1956, in the county aforesaid, in said justice's district 1 did then and there violate and break the law by contributing to the delinquency of a minor. (Code 2053) against the peace and dignity of the State of Mississippi.

JAMES ETTA JACKSON.

Sworn to and subscribed before me, this 26 day of November 1956.

JAMES L. BARLOW,
Justice of the Peace.

Mr. WILLIAMS. I have been informed that this woman, Beatrice Young, about 4 days ago received a telegram requesting her to appear in Washington to testify before one of the committees on civil rights.

The CHAIRMAN. Not from this committee.

Mr. WILLIAMS. I was going to say, Mr. Chairman, whether that was sent by one of the committees I am not sure or whether it was sent by the NAACP or some other source. However, in the event she does come before this committee, Mr. Chairman, in view of the conflict in sworn testimony as containd in these affidavits, I would hope the committee would place her under oath for her testimony as to what happened in that case. I would like also to have the opportunity to present the sheriff, the deputy sheriff, and others who allegedly perpetrated these crimes against this woman and put them under oath, and if there are discrepancies in the testimony, submit it to the Justice Department for action.

Mr. KEATING. She will not appear as a witness here. We cannot go into all these extraneous matters. We are considering a bill involving the right to vote. I am not criticizing you because this was brought out before the committee and you are entitled to bring the facts on your side.

Mr. WILLIAMS. You have an affidavit which is a sworn statement signed by this doctor and this woman herself in your files.

The CHAIRMAN. This presents the difficulties under which congressional committees labor. You can very well see these statements are all self-serving declarations, and if we would cross-examine anybody who makes such a self-serving declaration, under oath or otherwise, we would find ourselves hard put to get finished with these matters.

Mr. WILLIAMS. I realize that, Mr. Chairman. I can well appreciate that.

The CHAIRMAN. It may be that this request to appear was from some other committee. I do not know. We did not offer any suggestion of that sort.

Mr. WILLIAMS. I do not know where the request came from. Incidentally, that information is merely hearsay, but it came from a reliable source.

Mr. KEATING. The Senate is conducting an investigation, as you know.

Mr. WILLIAMS. I realize that.

Mr. KEATING. They are traditionally more deliberative than the House side.

The CHAIRMAN. I want to put quotation marks around that comment.

Mr. KEATING. I agree.

Mr. WILLIAMS. Sworn statements have been filed before your committee alleging that these incidents occurred, which are certainly inconsistent with the sworn statements of the law-enforcement officers.

The CHAIRMAN. It was really a copy of a sworn statement. The statement itself was not sworn to. It was just a copy. I do not know how accurate it is.

Mr. WILLIAMS. I trust you will give proper credence to it, under those circumstances.

Mr. Chairman, I am just about through.

In the 1955 uniform crime reports annual bulletin, issued by the FBI, there is a compilation of arrests by race. There are 1,445 cities, over 2,500 population, total population 41 million-plus, included in this compilation. Of the total population of those cities 11 percent are Negro. Here is the race distribution of the crimes classified by the FBI as major crimes. Bear in mind that only 11 percent of the total population is Negro.

Murder and nonnegligent manslaughter—Negroes committed 60 percent of those crimes.

Manslaughter by negligence, 19 percent.

Robbery, 51 percent.

Aggravated assault, 64 percent.

Burglary, breaking or entering, 28 percent.

Larceny and theft, 31 percent.

Auto theft, 19 percent.

Rape, 42 percent.

I give you those figures simply to show that if the NAACP and its allied organizations were to spend half as much time, money, and energy in attempting to lift the moral standards of the Negro as it does in promoting racial strife, maligning the good people of my State,

and involving this Nation in frivolous litigation, I feel sure next year's figures would show a substantial reduction in the extremely high and disproportionate Negro crime rate.

Mr. Chairman, in conclusion, permit me to emphasize what my Governor told you some weeks ago. In my considered opinion, the enactment of this legislation will set race relations back no less than 50 years. Where several years ago there was friendship, peace, and understanding in the South between the white and colored people, today, directly as a result of the recent Supreme Court decisions and action by outside agitators and meddlers, such as the NAACP, the Fund for the Republic, and other highly financed pressure organizations, that peace and comity is fast disappearing.

We intend, in spite of the force of the Federal Government and others, to maintain the peace of the State of Mississippi and the present good will and understanding that exists between the white and colored people of our State.

Thank you, Mr. Chairman, for hearing me.

The CHAIRMAN. Thank you very much, Mr. Williams. You have been very considerate. We are sorry we had to keep you waiting so long.

It is now 12:45, and we are scheduled to hear Senator Talmadge at 2 o'clock. However, we were to hear Mr. Davis Grant, assistant attorney general, representing Gov. Price Daniel, this morning. I understand you are with our very distinguished colleague, Congressman Dowdy. Would you want to start your testimony now and conclude it later, or would you rather wait so we can hear you without interruption?

Mr. GRANT. Mr. Chairman, I could wait and complete it all at one time.

The CHAIRMAN. All right. We will now adjourn, to resume at 2 o'clock.

(Thereupon, at 12:45 p. m., the subcommittee recessed, to reconvene at 2 p. m., the same day.)

AFTER RECESS

The CHAIRMAN. The committee will come to order.

STATEMENT OF HON. HERMAN TALMADGE, A UNITED STATES SENATOR FROM THE STATE OF GEORGIA

Mr. TURNER. My name is Kenneth H. Turner. I am administrative assistant to Senator Talmadge. He asked me if I would come over here, because of a speech that he is making on the Senate floor now, and asked me if I would offer to you his testimony for insertion in the record. He said he had hoped to be here, but unfortunately the time over there came at the same time he was to speak here.

The CHAIRMAN. Present my compliments to the Senator and tell him we will very gladly accept his statement for the record. Thank you.

Mr. TURNER. Thank you.

(The statement follows:)

STATEMENT OF HON. HERMAN TALMADGE, A UNITED STATES SENATOR FROM THE STATE OF GEORGIA

Mr. Chairman and members of the subcommittee, I appear before you today to express my views on the need for protecting the civil rights of the citizens of the United States.

Our Nation has grown great and stands today as the world's foremost bastion of individual freedom because of our jealous regard for our civil rights and our diligence in providing for the free exercise of them by all citizens.

History teaches us that people lose their civil rights because of governmental action. It was because of that fact of life that our Founding Fathers deemed it wise to enumerate in the Bill of Rights of our Constitution the inalienable rights of free men and to insure their perpetuity by prohibiting governmental interference with the enjoyment of them.

Every civil right which we as citizens of the United States cherish is set forth and guaranteed in that Bill of Rights. They are:

Freedom of religion.
Freedom of speech.
Freedom of press.
Freedom of assembly.
Freedom of petition.
Freedom to keep and bear arms.
Freedom from the quartering of troops in homes.
Security of persons, houses, papers, and personal effects.
Freedom from unreasonable searches and seizures.
Protection from unfounded warrants.
Freedom from trial without indictment.
Freedom from double jeopardy.
Freedom from self-incrimination.
Protection from deprivation of life, liberty, and property without due process of law.
Guaranty of compensation for property taken for public use.
The right to a speedy, public trial by an impartial jury.
The right to be tried in the State and district of the alleged offense.
The right to know the charges made against one.
The right to confront one's accusers.
The right to have assistance of counsel.
The right to seek damages in court.
The right to jury determination in civil cases exceeding $20.
The full protection of common law.
Protection against excessive bail.
Protection against excessive fines.
Protection against cruel and unusual punishment.
And, the enjoyment of all other rights not prohibited by the Constitution.

These guaranties are stated clearly and unequivocably in language which can readily be understood by any person with a fourth-grade education.

They are express prohibitions with no exceptions, no qualifications, and no loopholes.

They are as finite in their provisions as are the Ten Commandments and well can be likened unto them—the Commandments constituting the "Thou shalt nots" for men living under God and the Bill of Rights constituting the "Thou shalt nots" for a nation living under God.

The Bill of Rights is all inclusive in its guaranties. It employs the word "person" as distinguished from the word "citizen" in setting forth the civil rights to be enjoyed by those living in this Nation.

The Bill of Rights is emphatic in assuring that there shall be no legislative infringement of the liberties it enumerates. It declares that Congress shall make "no law" circumscribing any of the guaranties it sets forth.

Section 2 of article III of the Constitution is specific in establishing the manner of recourse for any person denied any of these civil rights. It vests in the Federal judiciary the power to hear and determine "all cases in law and equity arising under this Constitution."

Therefore, gentlemen of this subcommittee, I submit to you that legislation on the subject of civil rights not only is unnecessary but also would be duplicative

of and perhaps in direct conflict with the Constitution of the United States and the Bill of Rights.

I further submit to you that any person—regardless of his race, color, creed, previous condition of servitude, or place of residence—is fully protected in the enjoyment of his civil rights and has available to him immediate remedies in the event those rights are circumscribed or violated in any degree.

To those who insist that the enactment of new laws and the establishment of new procedures are necessary to the protection of civil rights in this country, I would like to ask these questions:

What rights would you protect which already are not guaranteed by the Constitution and the Bill of Rights? Are new rights to be created? If so, what rights?

Why is it necessary to create a commission to do what State and Federal courts already are empowered to do? Is it because the courts have failed? If so, in what way?

What procedures or recourses for redress in cases of civil rights violations would you substitute in lieu of those already established by the Constitution and the Bill of Rights?

Why do you feel that the constitutional guaranties and processes under which this Nation has achieved the greatness, prosperity, and liberty it enjoys today are not adequate to meet the needs of present and future generations?

It is my view, Mr. Chairman, that the protection of the civil rights of our citizenry lies not in the enactment of a welter of confusing, contradictory, and possibly unconstitutional laws but rather in a strict adherence to the constitutional guaranties, processes, and prohibitions which already are the law of the land and which, without question, are adequate to meet every requirement of those who are concerned about protecting the rights of the American people.

As a strict and undeviating constitutional fundamentalist who believes the Constitution of the United States means word for word what it says, I am greatly concerned about the effect upon our constitutional civil rights which enactment of the proposed legislation under consideration by this subcommittee would have.

There are, I believe, some 55 so-called civil rights bills before this subcommittee. They represent in varying degrees the four-point program offered by the administration. And in the interest of time and clarity I should like to address myself generally to those four proposals and to point out for the consideration of this subcommittee the grave constitutional pitfalls they present.

Fraught with greatest danger to constitutional guaranties and processes is the proposal for the creation of a Commission on Civil Rights with unlimited authority to delve into the affairs of any person, firm, group, or agency under the guise of investigating developments deemed by its six members to constitute "a denial of equal protection of the laws under the Constitution." Armed with full and unrestricted power of subpena and citation for contempt, the Commission would be an absolute power unto itself, answerable only to the consciences of the individual members. No right of appeal is provided and our citizens would be deprived of that fundamental right.

On 24 hours' notice this Commission could summon anyone from any part of the United States to any place it might designate to defend himself against charges of which he was totally ignorant prior to receipt of the subpena. It could compel him to bring with him all personal and business records which the Commission might desire to inspect. Furthermore, he would be required to comply at his own expense and failure to do so in any particular would make him subject to fine, imprisonment, or both for contempt.

Under the broad, loose, and ill-defined powers it would possess, the Commission could summon a minister to explain one of his sermons; an editor, one of his editorials; a political candidate, one of his speeches; a government official, one of his official acts; a group or organization, a petition it might be circulating.

It is hard to conceive of an instance in the pursuit of its investigations in which the Commission would not violate at least one of the very civil rights it would be created to protect.

To make my point crystal clear let me cite a hypothetical case.

We will assume these facts:

A Miss Wong, a Chinese-American of the Buddhist faith, was discharged from her job in San Francisco as personal secretary to John Smith, president of the Smith Bubble Gum Co., because of her inability to spell correctly.

Mr. Smith replaced her with a Mr. O'Reilly, an Irish Catholic and a member of Mr. Smith's own faith.

Miss Wong filed a civil suit seeking $100,000 damages, claiming she was unable to obtain employment elsewhere as the result of Mr. Smith's refusal to give her a good recommendation. At the same time she wrote to the Commission on Civil Rights and charged that the real reason she was fired was because Mr. Smith was prejudiced against women in general and Chinese Buddhist women in particular.

Notwithstanding the fact that the case already was a matter of litigation, the Commission voted to investigate it under its authority to "investigate allegations in writing * * * that certain persons in the United States * * * are being subjected to unwarranted economic pressures by reason of their, sex, color, race, religion, or national origin."

At 9 a. m. on Monday the Commission issued a subpena ordering Mr. Smith to appear before a closed hearing of the Commission in Washington, D. C., at 9 a. m. on Tuesday and to bring with him all records and correspondence concerning Miss Wong's employment and dismissal.

Mr. Smith, already under court order to appear in court in San Francisco with the same records at the same hour, advised the Commission he would be unable to appear at the designated time. He, in turn, was advised if he did not appear he would be cited for contempt.

Mr. Smith then appealed to the judge, who, being up for reelection and vitally concerned about the Chinese-American vote, said Miss Wong's attorney would not agree to a postponemen and advised Mr. Smith that failure to appear at the designated time also would result in his being cited for contempt.

To resolve the dilemma, Mr. Smith's attorney negotiated a hurried out-of-court settlement which cost Mr. Smith $25,000 and a letter of recommendation. Miss Wong agreed to withdraw her complaint to the commission.

The commission, meeting the following day, decided against dropping the case and renewed its subpena to Mr. Smith and issued another for Miss Wong—both being ordered to appear the following day. It asked the American Committee for the Protection of Chinese-Americans to assist and advise it in the inquiry; an organization, which, as you might suspect, was not impartial in its viewpoint.

After 3 weeks of hearings and 6 transcontinental round trips by Mr. Smith's subordinates to produce subsequently subpenaed records, the commission took the case under advisement.

Six months later the commission issued its report. Where it did agree that Miss Wong really could not spell very well, it concluded nonetheless that Chinese-American minorities must be protected against "unwarranted economic pressures." It recommended that such be accomplished through the enactment of legislation requiring every company engaged in interstate commerce to hire Chinese workers in the same percentage as the Chinese population of the city in which its home office is located.

News accounts of the report resulted in the picketing of Mr. Smith's plant and the boycotting of his products by militant minority groups—all because Miss Wong could not spell very well.

Mr. Smith, who estimated the entire episode cost him half a million dollars in personal expenses and lost business, sold his plant and retired an embittered and disillusioned man.

An extreme case? I think not.

I am confident that anyone with any imagination at all can visualize similar circumstances in his own hometown.

Anyone who ever has held public office—and I am sure you gentlemen will agree—can imagine investigations just as ludicrous as my hypothetical example which might result from inquiries into some of the many fancied, exaggerated, and deliberately untruthful "wrongs" which are often the subject of correspondence to public officials. Reflect on your mail about civil service jobs, and you will get some idea of the fancied wrongs that will be involved.

It is quite easy to see how such a commission, through its investigations, could deprive a man of his rights of freedom of speech, security of papers and personal effects, freedom from unreasonable searches and seizures, protection from unfounded warrants, freedom from double jeopardy, freedom from self-incrimination, freedom from deprivation of property without due process of law, the right to a speedy, public trial by an impartial jury, the right to be tried in the State and district of the alleged offense, the right to know the charges made against him, the right to seek damages in court, the right to confront his accusers, the full protection of common law and the other unspecified, but nevertheless, inalienable rights such as respect for the dignity and integrity of a freeman living in a free country.

Furthermore, and if for no other reason I would be opposed to it on this ground, it would have as its basis the complete reversal of the fundamental tenet of American jurisprudence that every man is presumed to be innocent until proved guilty

I do not believe such a commission could stand the test of the Constitution; that is, if such test be applied according to a strict interpretation of the Constitution rather than according to some preselected "modern authority."

However, even though it conceivably could be upheld on the basis of such extralegal "authority" as the United Nations Charter, I cannot bring myself to believe that the members of this subcommittee or of this Congress would vote to so jeopardize the inherent constitutional civil rights of their constituents. It represents a threat to the civil rights of every citizen of every State and Territory of this Nation.

In operation the effect of such a Commission would be the exact opposite of protecting civil rights To the contrary it would, through attempts to police the thoughts and actions of private citizens, serve to deny them the full and unfettered enjoyment of the rights which are their constitutional birthright

Briefly, I would like to make these points about the other three administration proposals:

(1) The creation of a Special Civil Rights Division in the Department of Justice under the direction of an additional Assistant Attorney General would provide no protection of civil rights not already presently afforded by the Constitution It would mean a further expansion of the Federal bureaucracy and the hiring at public expense of a small army of lawyers and investigators to harass and intimidate the officials and governments of our States, counties, cities, and other political subdivisions and public institutions

(Parenthetically, I would like to point out in this regard that the Attorney General already makes such investigations without specific authority—as the people of my State know from actual experience—and what he apparently wants is an ex post facto law legalizing what he already is doing)

(2) The threefold proposal to strengthen civil rights statutes is one which would be hilarious if it were not so serious in its implications.

The requested authorization of the Attorney General to seek injunctions to restrain persons who "are about to engage in any acts or practices which would give rise to a cause of action" is ridiculous on its face: that is, unless it also is to be accompanied with an authorization to hire mind readers to advise the Attorney General when and where such acts are being contemplated Such flies in the face of all basic legal doctrine and the repeated rulings of our Federal courts that injunctive relief cannot be afforded in speculative instances

An adjunct of that authorization would be to allow the Attorney General to file injunctive proceedings and civil suits for private individuals whom he considers to have been deprived of their civil rights whether those individuals desire to go into court or not Not only does such a proposal presuppose the existence of an Attorney General with the wisdom of Solomon but also it anticipates making him a glorified nationwide public prosecutor and protector and the de facto legal guardian of 170 million Americans

The most alarming of all the aspects of this proposal is that to empower the Attorney General to initiate his lawsuits "without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law" Enactment of that proposal, gentlemen, would be the death knell for State and local self-government in this country and apparently indicates that the Department of Justice no longer considers the 10th amendment an integral part of the Constitution of the United States

(3) The proposal to protect the right to vote by providing for injunctive proceedings initiated by the Attorney General against any individual who may be thought to be "interfering with the right" of another individual to vote is totally without constitutional authority. The Supreme Court has held repeatedly that the 14th and 15th amendments can be implemented only with respect to State action and only then in cases where the franchise is denied due to unlawful discrimination on account of race, color, or previous condition of servitude. Regulation and protection of the franchise except in these instances is a constitutional prerogative of the States To make it otherwise clearly would require a constitutional amendment

Gentlemen of the subcommittee, I have attempted to be factual and specific in the presentation of my view that the legislation which you have under consideration threatens to destroy the civil rights of the American people

While I am aware of the partisan, political motivations of these proposals, I have tried to discuss them from a national rather than a sectional viewpoint. I can see in these bills a grave threat to the civil rights of all Americans whether they live in Chicago or Atlanta, Oregon or Maine. And I feel it incumbent upon me, as a Senator of the United States, to speak out in warning of the potential consequences of such legislation.

I would be less than realistic if I did not admit to myself and to you that these measures are aimed at the peculiar problems of my State and region. And I would be the last to deny that those problems exist though, in all fairness, I must hasten to add that they are not problems of our own creation.

In a nation as large as ours, it is possible to find examples of injustice anywhere—from the Indians of the Southwest to the Eskimos of Alaska. Civil rights are violated in the Middle West and the East just as often as they are in the South and on the west coast.

But the mere fact that injustices do occur and civil rights are sometimes violated cannot by any stretch of the imagination be said to be justification for the destruction of constitutional government and the abrogation of constitutional guaranties. State and Federal courts are now available and no one has said they are not handling their jobs.

Just as a farmer would not burn down his barn to get rid of the rats so would no thinking American wish to jeopardize his heritage of constitutional freedom in search of a quick cure for human failings which have plagued mankind since Eve bit the apple in the Garden of Eden.

To those who might disagree with my viewpoint I would point to the example of Samson.

It is true that by pulling down the temple he destroyed his enemies.

But it likewise is true that in the process he also destroyed himself.

The CHAIRMAN. Mr. Bruce Bennett, attorney general of the State of Arkansas. I think you are flanked by our two distinguished Members of the House, Mr. Mills and Mr. Harris, for whom I have the most affectionate regard, and we are always glad to hear from them, and more particularly glad to hear them introduce you.

Mr. HARRIS. Mr. Chairman, it is a special and distinct pleasure that I have this afternoon of presenting to this committee the attorney general of our great State of Arkansas, the Honorable Bruce Bennett. I have personally known Mr. Bennett for many years. He and I are residents of the same hometown. Our families have been very closely associated for many years. He comes to you today representing the State of Arkansas on this important matter, with a most distinguished background.

Following his very fine and outstanding heroic service in World War II, having served both in the European theater and then moving to the far Pacific as a pilot on one of the big bombers that we had, and having participated in that conflict, he came back home and in his usual way, completing his course from Vanderbilt University from which institution he has the honor law degree, he entered the practice of law.

In due time in our judicial district, the 13th Circuit of Arkansas, he was awarded by the people of that district their confidence expressed in having him elected to the position of district prosecuting attorney, in which position he served well for and distinguished himself on behalf of the public for a period of 4½ years.

In our last election my friend decided that he wanted to represent the State of Arkansas, and he announced for attorney general. I do not have to tell you gentlemen, who are distinguished and experienced lawyers, and in the judicial field, what the important position of attorney general of a State is. He comes to you today as one of the attorneys general of this great Nation in his official capacity and repre-

senting the people of our State. He comes to you to talk about this very important subject matter of civil rights. I do not need to take the time to explain or attempt to explain to you gentlemen who are members of this committee my own personal feelings regarding the proposed civil rights program. We have had that question before us many, many times. I do want to say in presenting Mr. Bennett to you that he takes the position, as we do in our State, that it undoubtedly is one of the most important subject matters that has perhaps provoked more controversy and deep feeling than any issue at any time since the War Between the States.

We know that this subject will be continuously threshed out over a period of time. We do fully realize that it is a subject on which there should be some real soul searching. That should be not only by the members of the committee and the great State which we represent, but Members of this Congress of the United States, as well as the people throughout the Nation. It is in that spirit of understanding that he comes today to present to you and to this committee his position.

I take great pleasure, Mr. Chairman, and members of the committee, in presenting to you the Honorable Bruce Bennett, our attorney general.

STATEMENT OF HON. BRUCE BENNETT, ATTORNEY GENERAL OF THE STATE OF ARKANSAS

Mr. BENNETT. Thank you very much, Congressman Harris.

The CHAIRMAN. We are very glad to hear from you, Mr. Attorney General. You have certainly had a very fine introduction, and we are going to expect a ripsnorting speech from you.

Mr. KEATING. I might say in all of those nice things that our friend from Arkansas said that we can reciprocate those many feelings about our friend from Arkansas who whether we find ourselves in agreement or disagreement always we have respect for his viewpoint.

Mr. BENNETT. Thank you. We are proud of our Congressman.

The CHAIRMAN. What Brother Keating said about Congressman Harris also applies to Congressman Mills.

Mr. KEATING. I did not see him. I intend my remarks to include both the gentlemen from Arkansas.

Mr. HARRIS. If the gentleman will permit, we now also have another member of our delegation from Arkansas, Mr. Gathings.

Mr. KEATING. I did not know that, either. That goes for the whole delegation from Arkansas. I said many times, and this is a very dangerous remark for a Republican to make, that Arkansas is at least as well represented in this Congress as any State in the Union.

Mr. BENNETT. Thank you, sir.

The CHAIRMAN. We welcome you, Mr. Gathings, also. We are going to hear from you later.

Mr. BENNETT. With the permission of the chairman, I have prepared a statement and I will just read the statement in if it is all right with you, sir.

The CHAIRMAN. Very well.

Mr. BENNETT. My name is Bruce Bennett. I am attorney general of the State of Arkansas, having been elected for a term which commenced on January 15, 1957. I have lived in Arkansas all of my

life. I was born in Helena, Ark., on October 31, 1917, spent 5½ years in the Army and Air Force, serving in Europe and the South Pacific. I graduated from the Vanderbilt University Law School in January 1949. I was elected district prosecuting attorney for four counties in south Arkansas, in 1953, and served from 1953 through 1956, when I entered my present duties.

The Arkansas Legislature in 1943 enacted a law cited as Uniform Law To Oppose Federal Encroachments. A copy of this act is tendered herewith as part of my statement.

(The information follows:)

APPENDIX A

ACT 166, ARKANSAS ACTS OF 1943

UNIFORM LAW TO OPPOSE FEDERAL ENCROACHMENTS

AN ACT To provide for the participation by this State in organized, concerted action of the several States to secure the return to them after the war of all normal State powers which during the war may be exercised by the Federal Government, and to prevent further future encroachments by Federal bureaus, boards, and commissions into the field of usual State functions, by imposing upon the attorney general certain duties with respect to existing and proposed Federal legislation

Be it enacted by the General Assembly of the State of Arkansas, as follows:

1. In order to secure concerted action among the States to oppose Federal encroachments upon the State powers, and to expedite the proper execution of the responsibility of the Government in the war effort, it shall be the duty of the attorney general to cooperate with the attorneys general of other cooperating States in making a study of existing Federal legislation to determine whether, by the establishment of Federal bureaus, boards, or commissions, or otherwise, such legislation has resulted in objectionable or harmful encroachments upon the normal field of State functions and powers, and (except during the war and insofar as said legislation is reasonably related to the conduct of the war) to call to the attention of this State's Senators and Representatives in Congress all legislation which, in his opinion, is objectionable or harmful in this respect. He shall also furnish each such Senator and Representative a written statement of the reasons for his belief that such legislation is objectionable or harmful to the State, together with his suggestions for appropriate congressional legislation to remedy same.

2. It shall also be the duty of the attorney general to likewise cooperate with such other attorneys general in making studies and examinations of all now pending or hereafter proposed congressional legislation to determine whether the same may result in Federal encroachments into the normal field of State legislation or State functions, or whether same is harmful or beneficial to the interests of the State or its citizens, and to advise said Senators and Representatives in writing of his opinion and views with respect thereto, together with his reasons therefor; and to suggest any amendments to any such pending or proposed legislation which he deems appropriate or necessary to protect the interests of the State and its citizens.

3. The attorney general shall also make any reasonable or appropriate investigation or study of any existing or proposed Federal legislation to determine its effect upon the State and its citizens whenever he is requested so to do by any of this State's Senator or Representatives in Congress, and report the result of such investigation or study.

4. The attorney general shall appoint a deputy or assistant attorney general whose principal duty shall be to assist in the performance of the duties imposed by this act. The compensation of said deputy or assistant shall be paid out of the appropriation for the attorney general's office contained in the general appropriation act.

5. The attorney general and/or his said deputy or assistant is hereby authorized to become a member of an organization now existing or hereafter formed, the membership consisting of the attorneys general of the various States, and/or their deputies or assistants, and the purpose of said organization being to

bring about the joint or concerted action of said States to preserve in the States their normal powers, obligations, and functions as provided by the Constitution of the United States. The attorney general is authorized to pay, out of the bill of appropriations for conducting his office, this State's fair part or proportion of any proper expenses incurred by said organization in furtherance of the purposes of this act.

6 This act may be cited as the "Uniform Law To Oppose Federal Encroachments."

Approved March 4, 1943.

Mr. BENNETT. It directs the Attorney General to inform the Arkansas Senators and Representatives in Congress of any legislation which, in his opinion, is objectionable as being a Federal encroachment upon the State powers.

Under section 2 of the act, it is made the duty of—

the Attorney General to likewise cooperate with such other attorneys general in making studies and examinations of all now pending or hereafter proposed congressional legislation to determine whether the same may result in Federal encroachments into the normal field of State legislation or State functions, or whether same is harmful or beneficial to the interests of the State or its citizens, and advise said Senators and Representatives in writing of his opinion and views with respect thereto, together with his reasons therefor; * * *

This act is one of the reasons I am here today in my official capacity. Another reason I am here is that, having just completed two terms as district prosecuting attorney, it is my opinion that H. R. 1151 and H. R. 2145, commonly called civil-rights legislation, is unnecessary because of the fact that, insofar as Arkansas is concerned, there has been no deprivation of civil rights, regardless of any minority group. It is my understanding that one of the prime matters of importance to this committee with reference to civil rights is a question of voting or the denial of the right to vote to certain individuals because of their race, creed, or color. The right to vote has not been denied or abridged to anyone in Arkansas that I am aware of.

Mr. KEATING. Mr. Attorney General, the chairman can correct me if I am wrong, but I do not believe there are any allegations before us of any deprivations of the right to vote in the State of Arkansas.

The CHAIRMAN. Yes, sir.

Mr. BENNETT. The Arkansas constitution of 1874 levies a per capita or poll tax in the sum of $1 upon the citizens of the State. The payment of this tax in a prerequisite to vote. In 1956, there was tolled in Arkansas 580,645 poll tax receipts which permitted the holder to vote in the November 1956 general election, and in any election in Arkansas in 1957 prior to October 1. Our population has been declining, and it is estimated that we have now 1,850,000 people of all ages in our State. The poll tax is part of our integral law; the proceeds go into the common school fund.

Mr. KEATING. May I ask, if a person fails to pay this poll tax in any year, must he then in a subsequent year pay up for all back years before he can vote?

Mr. BENNETT. No, sir.

Mr. KEATING. He can just vote any one year by paying the tax.

Mr. BENNETT. That is right.

Mr. ROGERS. How do you change the constitution in Arkansas? You said this is part of the constitution of Arkansas of 1874.

Mr. BENNETT. It would have been changed by the people, Mr. Rogers, by constitutional amendment. The legislature has no power to change it.

Mr. ROGERS. It would have to be by the initiative of the people. What is the requirement?

Mr. BENNETT. I think it is 15 percent of the qualified electors who voted at the last general election, or the legislature has the power to propose 3 constitutional amendments each session.

Mr. KEATING. Did they ever propose one with reference to the poll tax?

Mr. BENNETT. Yes, sir. The next paragraph contains that.

As recent as November 6, 1956, the people of Arkansas voted on the proposition of abolishing the poll tax. The vote was 210,237 for the retention of the poll tax, with 161,403 voting to abolish it. It can readily be seen that the majority of the qualified electors of our State approve our current system of voting.

Mr. KEATING. How many States still have the poll tax?

Mr. BENNETT. Six, I believe, sir.

Mr. KEATING. One of them is New Hampshire, is it not, or Vermont?

Mr. BENNETT. Mr. Keating, I don't know.

Mr. KEATING. Are they all southern States?

Mr. FOLEY. Yes.

Mr. BENNETT. I respectfully submit to this committee that from my own personal knowledge as a lawyer and public official of my native State that no person has been denied the right of franchise. The legislation under consideration by this committee does not abolish the poll tax and would have no bearing on our system of voting in Arkansas. In our State, any adult person desiring to vote merely goes to the tax collector, pays his dollar, and is issued a receipt entitling him to vote in elections for the following year. His name is entered on a list of voters, which list is furnished to each election judge and clerk. It is not necessary for the voter to show his receipt as long as his name appears in the list of voters. I repeat: any citizen may follow this procedure in our State. Those of the Negro race in our State pay this tax just like anybody else, and I do not think anyone from our State can come before this committee and truthfully state that they have been disenfranchised because of their race, creed, or color.

Mr. KEATING. Do you have any literacy test in Arkansas?

Mr. BENNETT. No, sir. All you have to do is be 21 years of age and have the dollar.

Mr. MILLER. And have resided in the State a certain length of time.

Mr. BENNETT. Yes; the State a year, the county 6 months, and the township or precinct 30 days.

H. R. 1151 sets up a six-member commission, appointed by the President, and among its other duties, the—

> Commission shall investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressure by reason of their color, race, religion, or national origin.

The resolution authorizes an additional United States Assistant Attorney General and authorizes him to institute suit in the name of the United States, but—

> for the benefit of the real party in interest, a civil action or other property proceeding for redress, or preventive relief * * * including injunction, restraining order, or other order * * *

Farther along in the bill, the Federal district courts are given jurisdiction of the proceedings and—

shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

This latter section is purposely designed to oust State courts and administrative tribunals of their original jurisdiction in local matters.

It has long been decided by the Supreme Court of the United States that a person must exhaust his administrative remedies prior to invoking Federal jurisdiction. The quoted section above is nothing but a premeditated attempt for further Federal encroachment on State prerogatives and responsibilities.

It is designed to give further power to Washington. If enacted, it would create chaos in every State in the Nation. I think H. R. 1151 is bad legislation.

H. R. 2145 establishes a "Commission on Civil Rights" of five members. It further provides for an additional United States Assistant Attorney General who would be in charge of a Civil Rights Division of the Department of Justice. This Division would be concerned with all matters pertaining to the preservation and enforcement of civil rights. H. R. 2145 increases the personnel of the Federal Bureau of Investigation with respect to the investigation of "civil rights cases under applicable Federal law."

The bill then proceeds to blanket in a number of items into the United States Code as "rights, privileges, and immunities," and is so loosely worded that not a sheriff or police officer in the United States could be sure that he would not be investigated and tried by the Federal Government for an alleged violation of the civil rights of the person he took into custody. He would run the risk of being accused by persons arrested by him of having deprived them of some right under the Constitution. Police officers would have to spend a greater part of their efforts in defense of their own actions in the protection of life and property than is proper. A criminal would merely have to call upon the Federal Government to proceed against the local officer on some trumped-up charge, and could thereby intimidate any officer who dared arrest him.

Mr. KEATING. That is, he could, if the Attorney General did not exercise some kind of discretion, such as you would exercise in your capacity as attorney general of the State, and declining to prosecute in a case which did not have merit. You do not prosecute all the cases that are brought in to you.

Mr. BENNETT. That is true. Some of our confirmed criminals are very good lawyers in themselves. I do not know whether or not as a practical manner, if our police officers would be able to grill people they think have committed a crime or not with this legislation.

Mr. KEATING. There is nothing of that kind in H. R. 1151. But even in H. R. 2145 any action taken by a public official must require the exercise of some discretion. A public official can't prosecute or bring a civil proceeding in every case that is brought in to him, and he should not, because there are many cases brought in that do not have merit.

Mr. BENNETT. As I understand this legislation, if a sheriff took a suspect into custody—and I know as a practical matter sometimes they

will quiz them 2 or 3 days straight running, with a billy used once in a while—they do those things because they have to—under this legislation, could not the suspect hail the sheriff into Federal court?

Mr. ROGERS. Isn't that a violation at the present time?

Mr. KEATING. You can bring an action for damages today.

Mr. BENNETT. Yes, sir. This goes further than damages. This puts you in a Federal court without a jury.

Mr. KEATING. This restrains him before an illegal act is committed. This gives the right to restrain that if it is threatened.

Mr. BENNETT. You might ask Mr. Hoover about how this legislation will affect his agency.

Mr. KEATING. The Attorney General has appeared in favor of this legislation.

Mr. BENNETT. I know the Attorney General did, but I wonder how Mr. Hoover feels about it?

Mr. KEATING. I am very certain that Mr. Hoover is not in difference with the Attorney General on this legislation. Certainly there has been nothing brought to the attention of this committee.

Mr. BENNETT. Certainly the Attorney General is his boss. I would like the committee to ask some of these sheriffs how it would affect them. Maybe the National Sheriffs' Association would want to be heard.

The CHAIRMAN. You would not want Mr. Hoover to testify counter to his superior?

Mr. BENNETT. No. I have people working for me, Mr. Celler, that might not be in accord with what I say.

The CHAIRMAN. How long would you keep them in your employ if they did that?

Mr. BENNETT. Mr. Hoover has been there a lot longer than Mr. Brownell.

Mr. ROGERS. How does 2145 or H. R. 1151 extend the present law as it may relate to cruel and inhumane punishment inflicted by one who has a civil right, so to speak, of arrest, with a warrant? Do you interpret H. R. 2145 and H. R. 1151 extend the so-called civil-rights statutes of the Federal Government further than they now exist?

Mr. BENNETT. It certainly extends the remedy a lot further.

The CHAIRMAN. That is correct.

Mr. BENNETT. That is the procedure.

The CHAIRMAN. That is right.

Mr. BENNETT. As I understand this matter now somebody could go to the United States attorney if this legislation passed and say, "Look, that sheriff used a billy club on me when he was getting that confession from me about stealing a car." If the United States attorney wants to, he can hail that sheriff into Federal court before a Federal judge without a jury or anything else.

Mr. ROGERS. No. Now wait a minute. It could be done now. They prosecuted the warden of my penitentiary in my State.

Mr. BENNETT. No. With a jury.

Mr. ROGERS. That is a criminal trial. In this instance I mentioned it, and the reason why I asked the question how far do you extend it, you say because we give an injunctive procedure to the Attorney General of the United States, the instance that you recite is that the complaint or the crime has been committed, if any, when he goes to the United States attorney because the sheriff has already beat him

up. Do you think that under this legislation the United States attorney would automatically go in and get an injunction against every sheriff and every warden in the United States because he thinks that he may do it, and thereby deprive him of the right of trial by jury?

Mr. BENNETT. I know since we have had the Supreme Court decisions in our particular end of the country that our sheriffs and police officers are very delicate when they make any arrest where it involves a member of the colored race.

Mr. KEATING. Isn't it a violation of a law of Arkansas for a sheriff to beat a prisoner over the head?

Mr. BENNETT. It is a violation, but as a practical matter they do it all over the Nation. Police officers, sheriffs, and everybody else.

Mr. KEATING. I think that is an indictment against the police officers of this country. I don't think such things go on over the Nation. I hope it doesn't go on in the area from which I come, and in recent years I have never heard any such complaint against the sheriff of my county, or the chief of police of my city. I don't think such beatings go on all over the country.

Mr. BENNETT. Maybe I was a little broadsided there. But as a practical matter every detective department in the country—maybe they don't do anything but grill the man for 2 or 3 days, but you have heard of that.

Mr. KEATING. I realize that.

Mr. BENNETT. I don't think they just take them and stomp them and beat them to death. But there are certain ways to get evidence and certain ways to get confessions and it is done.

Mr. KEATING. You agree that all that H. R. 1151 does is to say that the Attorney General may in behalf of the real party in interest bring either a suit for damages or injunction in any case in which today the injured party could bring such an action. You agree that is all it does?

The CHAIRMAN. Plus some additional rights as to voting.

Mr. KEATING. As to voting. I am talking about a case of beating up somebody. If it was a case where civil rights were involved, all this bill does is to extend to the Attorney General the right to bring the same kind of action an individual can bring today.

Mr. BENNETT. I think it would be interesting to this committee, Mr. Keating, if the committee did hear from some representative maybe of the National Sheriff's Association how this bill might affect their work.

Mr ROGERS They adopted a resolution opposing it according to testimony we had here this morning.

Mr. FOLEY. The Police Chiefs' Association.

Mr. BENNETT. I don't know. I am talking from a practical matter how this thing would work on them.

The CHAIRMAN. You may proceed.

Mr BENNETT. Yes, sir.

The penitentiaries and jails of our country are filled with "guardhouse lawyers," and this bill would be a godsend to every confirmed criminal behind bars.

The sheriffs and police officers of our Nation are most underpaid, overworked, and perform a sacrificing service to the public. They should certainly not be harassed and intimidated, which this legislation would permit. Having worked closely with police officers for 4 years, I know their job is not an easy one. Their lives are endan-

gered every minute they are on duty, and to put the additional burden of having to defend every action on their part, in Federal court, is asking too much.

In summary, I wish to state that we have had no violence in Arkansas among our people. Three school districts in this State have voluntarily integrated. In the well remembered Hoxie case there was no violence. It is my understanding that of the original 25 colored students who entered the Hoxie School, 6 are still attending.

The people of Arkansas are industrious, peace loving, and have a sincere desire to work out the problems generated by the desegregation decisions of 1954. The responsible people of this State are making progress. I can, with all good conscience, say that neither Arkansas nor any other State needs this legislation. We feel that it is further encroachment by the Federal Government and would be harmful to the progress that is being made in Arkansas and in the South.

I will be glad to answer any questions any member of the committee desires to ask.

The CHAIRMAN. This law that was passed by the State of Arkansas, called the uniform law to oppose Federal encroachment, I take it that it is your duty under that statute to advise with the representatives of your sovereign State who are here in Congress in both Houses.

Mr. BENNETT. Yes, sir.

The CHAIRMAN. Suppose you find a statute which, in your estimation, does encroach in that way, what do you do then?

Mr. BENNETT. I did not hear the question.

The CHAIRMAN. Suppose you find a statute that involves that encroachment upon the State's powers, what do you do then?

Mr. BENNETT. Frankly, I didn't find this law until last Friday. I don't think anybody else knew we had it down there. It was passed during the war. I will know what to do now.

The CHAIRMAN. What do you intend to do?

Mr. BENNETT. I intend to write my Congressmen and Senators as the act stipulates, and tell them what my views are on the matter.

The CHAIRMAN. You have done that anyhow.

Mr. BENNETT. Yes, sir. I had planned to come before I found this statute.

The CHAIRMAN. I am sure you have very excellent representation here in Washington.

Mr. BENNETT. Yes, sir.

The CHAIRMAN. I don't think they even need any prodding from back home.

Mr. BENNETT. We are proud of the whole delegation from my State.

The CHAIRMAN. Thank you very much.

Mr. BENNETT. Thank you very much, Mr. Chairman.

The CHAIRMAN. Now we have another attorney general who represents the sovereign State of Texas and represents particularly Gov. Price Daniel.

Mr. Gathings, do you want to appear first?

Mr. GATHINGS. Yes, sir; to keep Arkansas together, if you would like to do it that way.

The CHAIRMAN. We would like to give preference to Members of the House. You have preference if you want to go on now.

Mr. GATHINGS. Yes. I would like to present this witness from Arkansas who is with me here.

Mr. Chairman, I would like to ask unanimous consent to extend my remarks in the record.

The CHAIRMAN. We are very glad to have you extend your remarks.

(The statement follows:)

STATEMENT OF HON E C. GATHINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr Chairman, it is a pleasure to have the privilege of appearing before your committee in opposition to H R 1151 and H. R. 2145, and the various civil rights proposals that you are considering. My State of Arkansas and, more particularly, the district which I have the honor of serving, is extremely concerned with regard to encroachment by the Federal Government on matters which we hold to be solely and exclusively to be under the jurisdiction of the several States.

It is a mammoth undertaking for public schools to offer equal facilities to white and Negro races In the State of Arkansas every effort is being made to give all pupils the highest type of educational advantages. I quote from a news release from the State board of education written by Commissioner A. W. Ford in this regard:

"Schools in Arkansas are the best in our history. This does not imply that we do not have many problems. But it does indicate that significant progress is being made in public education.

"Ninety-eight percent of pupils, both white and Negro, are attending school 9 months this year. Our transportation system is one of the best. The school-lunch program ranks with the best in the Nation Millions have been spent in recent years for new buildings and equipment Our teachers are the best in our history. This is shown by the constant improvement in teacher preparation.

"Many other improvements could be noted. The morale of the school people has definitely improved.

"We will continue to have problems But we should be thankful for living in a country where we can have problems and where we are privileged to work on these problems in our own way."

I have received some letters from eminent Arkansas educational leaders with respect to the manner in which school districts are now being operated in various cities in my district. It is not my purpose to include all of these letters in the record, since I would like to avoid repetition.

I had occasion to discuss this matter of nonintegrated schools with Mr. W. B. Nicholson, an able and learned superintendent of the public schools at Blytheville, Ark., on his recent visit to Washington en route home from the Atlantic City National School Conclave Mr. Nicholson prepared a most timely résumé with respect to the opportunities offered both white and Negro students in the Blytheville school district. I would like to quote verbatim from Professor Nicholson's statement:

"In the Blytheville school system all schools without respect to race are under the administration of 1 superintendent, 1 board of education, 1 elementary supervisor, and 1 high school supervisor. Classes of Negro children are visited regularly by the supervisors who are white women These supervisors from time to time take over the classes and demonstrate teaching techniques for the benefit of the teacher. Regular teachers' meetings are held and attended by the supervisors

"All teachers in the Blytheville school system are paid according to the same salary schedule It is a significant fact that one of the first grade teachers in a Negro school qualifies for the highest classroom salary provided for in the salary schedule This teacher has a master's degree and maximum teaching experience. First grade teachers receive slightly more than other teachers according to the salary schedule Therefore, this teacher qualifies for and receives the highest classroom salary the schedule provides for

Teacher salary schedule, Blytheville public schools

Professional training	Period	Base salary	Salary including experience increments			
			1 year	2 years	3 years	4 years
1 year	Monthly	$132.75	$132.75	$132.75	$132.75	$132.75
	Annual	1,194.75	1,194.75	1,194.75	1,194.75	1,194.75
2 years	Monthly	162.00	167.00	172.00	177.00	177.00
	Annual	1,458.00	1,503.00	1,548.00	1,593.00	1,593.00
3 years	Monthly	193.50	199.50	205.50	211.50	211.50
	Annual	1,741.50	1,695.50	1,849.50	1,903.50	1,903.50
4 years	Monthly	249.72	256.72	263.72	270.72	277.72
	Annual	2,247.50	2,310.50	2,373.50	2,436.50	2,499.50
5 years	Monthly	276.50	284.50	292.50	300.50	308.50
	Annual	2,488.50	2,560.50	2,632.50	2,704.50	2,776.50

"A recent secret poll of the Negro teachers in the Blytheville school system showed that 1 teacher out of a total of 36 voted against segregation. The others favored segregation with equalization of educational facilities and opportunities. The point these teachers made was that under a segregation policy their teaching positions were safe and secure.

"They, themselves, furnished me with data showing the pitifully small number of Negro teachers employed throughout the Nation, especially in the north and east, where it is claimed segregation is not practiced.

"The per-pupil cost of the Blytheville school system averages for the elementary schools slightly more than $160. The average per-pupil cost for Negro elementary schools is included in this figure.

"In the high schools the per-pupil cost for white children is somewhat higher than the same cost for Negro children. When it is considered that more than nine-tenths of the school tax money is paid by white taxpayers and that approximately 60 percent of the children in school are white, it does not become necessarily an injustice, if the per-pupil cost for white children is a few percentages higher than the per-pupil cost for Negro children.

"Certain Negro leaders in this community have pointed out to me a danger which they see in the close association of teen-age children of the two races in school. They point out that this is the time that the mating instinct awakens and asserts itself with great force. They fear for the continued existence of their race if segregation in schools should be abolished. They know they are in the great minority and in due course of time their descendants as pure-blood Negroes would cease to be. They tell me they are proud of their racial identity and prefer to see their racial integrity and individuality maintained and perpetuated. Their contention is, and I think justly so, for equalization of opportunity in all fields of human endeavor and also for ample assurances and help in maintaining their racial integrity and dignity."

Some 3 or 4 years ago a bond issue was voted by the patrons of the Blytheville School District for the purpose of constructing a school building which was badly needed by both white and Negro pupils. The directors of the Blytheville School District saw fit to give priority to the building of the colored school although an urgent need existed to build additional white facilities to alleviate a severe overcrowded condition. I cite this Blytheville case as typical of the general attitude of our people in assuming the weighty responsibility which rests upon them to offer the highest type of school training to members of both races. We feel without reservation or equivocation that every child of school age, regardless of color, is entitled under the constitutions of the State of Arkansas and of the United States to equal educational opportunities and advantages with respect to that received by any other child. At the same time, we hold that school children should be classified into reasonable qualifications, including sex, race, age, and mental capacity. The individual States make these decisions, and rightly so.

The relations between the races in the State of Arkansas and throughout the South have continuously improved in recent years. They are better today than they ever have been before. We only ask to be let alone, and that any problem affecting the education of our young people be handled by the several States themselves. The continuation of segregation in our public schools is in the interest of continued good relations and the advancement of both races.

Our American heritage is priceless; our system of government is the envy of nations everywhere. The maintenance and preservation of constitutional government is, or ought to be, the concern of all Our forebears settled here to escape from the yokes of tyranny and oppression so that they might enjoy the blessings attending a free people

I trust that your committee will reject these bills

Mr. GATHINGS. Mr. Chairman and gentlemen of the committee, it is highly pleasing to me to present this distinguished citizen of Arkansas who has come today to testify with regard to these civil rights proposals. I have known this gentleman for a number of years. He comes from the district that I am privileged to serve in the Congress. He is a graduate of Washington-Lee University, and one of our most able and successful practitioners of the law. He served for a period of 6 years in the House of Representatives of my State, 8 years in the State senate, in which I served with him 4 of the 8 years. He was next Lieutenant Governor of the State of Arkansas for a period of 4 years. He served two governors as legislative consultant. He has been named on the civil rights committee of our State by Gov. Orval Faubus. He represents Governor Faubus here today. Fellow members of the bar selected him as the president of the Arkansas Bar Association. It is my pleasure to present to you Hon. J. L. Bex Shaver.

The CHAIRMAN. We are very glad to hear from you.

STATEMENT OF BEX SHAVER, FORMER PRESIDENT, ARKANSAS BAR ASSOCIATION, AND FORMER LIEUTENANT GOVERNOR OF ARKANSAS

Mr. SHAVER. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, after the decision in the Brown case, which is known as the Segregation Case of 1954, I became interested in the matter as far as Arkansas is concerned. I am not now holding any public office, and have not for several years.

After reading that case, it was my opinion that the entire life of this whole country had been changed as far as sociological ideas were concerned. The Supreme Court of the United States struck down the segregation cases and the segregation statutes under the equal protection clause of the Federal Constitution. They reserved the right about the due process.

Arkansas filed briefs when the United States Court asked for briefs as to how to carry out the decisions of the Court.

The Court on May 31, 1955, finally handed down the decisions as to how to carry out the decisions of the courts. After that was done, Arkansas at the request of Governor Faubus appointed a commission. This commission at that time went to Virginia. They had under discussion in Virginia what is known as the Gray plan, and we came back and recomended to the Governor that we have a doctrine of interposition in which we interpose the power of the State not in defiance of the United States Government, but appealing to the public as the last place to appeal for the purpose of stating our position.

We also recommended an assignment bill which would let the matter be handled through the various districts in Arkansas.

Mr. KEATING. School districts.

Mr. SHAVER. School districts; yes, sir.

Mr. KEATING. The Supreme Court decision said that the actual implementation would be done through various Federal districts. In other words, through the Federal district judges throughout the country.

Mr. SHAVER. That is right. In other words, as I understand the Federal Court decision, it would be handled locally by the Federal courts. That is what I am here objecting to. From a sociology standpoint and from social justice, as I understand it, the whole purpose of what we all want to do is to educate all of the children. That is our purpose. It seems to me that we have lost sight of educating all the children in all of the States over what we call civil rights.

The CHAIRMAN. May I ask at this point: Does your State recognize the desegregation decision of the Supreme Court?

Mr. SHAVER. Yes, sir.

The CHAIRMAN. How would you then implement that decision?

Mr. SHAVER. We implement it through the school-assignment law.

The CHAIRMAN. That is, you would require a case to be brought in each school district?

Mr. SHAVER. Not necessarily a case. For instance, let us take Arkansas as a whole. In eastern Arkansas, where I come from—a little town of 3,500 people—we are in what you call the Cotton Belt, or next to the Mississippi River, where we raise a great deal of cotton. In northwest Arkansas, in the Ozarks, we have no problem at all. There are no Negroes in northwest Arkansas. There are 15 counties in Arkansas that do not have a Negro student in school. There is another 10 counties in Arkansas that have less than 100.

Mr. ROGERS. How is your assignment situation?

The CHAIRMAN. How do you meet that situation? We are very much interested in it.

Mr. SHAVER. Mr. Chairman, I got into it because I wanted to try to help solve it. That is my only interest. I know that is your interest. The people voted on this assignment and interposition.

Mr. KEATING. How does it work? I don't understand it. Is it too complicated to explain to our subcommittee?

Mr. SHAVER. No. In other words, we just declared that we are supporting the Constitution of the United States and the constitution of the State, and then we set up certain things that they can take into consideration in assigning the students, but they cannot take into consideration the race issue.

Mr. KEATING. What are the things?

Mr. SHAVER. In determining a particular public school in which each pupil shall be assigned, the board of directors shall have power and it is made their duty to give consideration and base decisions on the following factors: Available room, teaching capacity in the various schools, geographical location of the place of residence of the pupil as related to the various schools of the district, the availability of transportation facilities, the effect of admission of new pupils on established or proposed academic programs, the suitability of established curricula for particular pupils, the adequacy of the pupil's academic preparation for admission to the particular schools and curriculum.

The CHAIRMAN. What are you reading from? What is that called? Are you reading a statute?

Mr. SHAVER. I am reading from a statute that has been voted by the people of Arkansas.

The CHAIRMAN. What is the date of the statute?

Mr. SHAVER. It was voted in November 1956.

The CHAIRMAN. It was after the desegregation decision.

Mr. SHAVER. Yes, sir.

Mr. KEATING. Did they not take those things into consideration before the desegregation decision that you are talking about?

Mr. SHAVER. In other words, as I construe the desegregation decision they struck down as arbitrary the classification of children on account of color. That is what I think it did. We don't think that gave to the Federal court the power to run our schools.

Mr. KEATING. No.

Mr. SHAVER. We don't think that it was supposed to do that or the Supreme Court wanted to do it.

The CHAIRMAN. Those provisions having been adopted after the desegregation decision could very well be used to circumvent the decision. You have so many conditions in there which must be considered by the school authorities, and they could seize upon one or more of those conditions and say the school can't be opened to both white and colored children.

Mr. SHAVER. Mr. Chairman, as I understand it, the State department of education would put in rules and regulations and try to lay down these rules and regulations and gradually over a period of years this thing might come about.

The CHAIRMAN. Your point is that in view of the peculiar conditions in the State of Arkansas, namely, that near the Mississippi and southern part of your State you have a great many Negroes, whereas up in the northern part of the State and the western part of the State you have a paucity of Negroes, and therefore the approach should be gradual, and you feel that following these standards as laid down in that statute there could be that gradual approach to the situation. Is that the point?

Mr. SHAVER. Yes, sir. Mr. Chairman, it would take years. Since *Plessy* v. *Ferguson* was 60 years. Then to come here suddenly and not only render this decision that the Court did which affected the most precious thing we have, our children, and then for the Federal Government to now advocate that they would go in there in the name of the injured party and use the great powerful arm of the Government, and sue any citizen in the United States, it could happen in New York or any place.

Mr. KEATING. It should happen in New York if New York is found guilty of violation of law.

Mr. SHAVER. I believe it says in a civil action or for redress. Then in order to keep us from running our own schools they take away another precious right in the name of civil rights, and that is the administrative remedy.

Mr. ROGERS. As I understand the law that was passed by the people of the State of Arkansas, it prohibits the school boards from making assignments based on race or color. If a school board in Arkansas did make the assignment, so to speak, based upon that and nothing else, it would be in violation of the law of Arkansas, would it not?

Mr. SHAVER. That is right, sir. This act was voted on by the people.

Mr. KEATING. You figure it would take about 60 years to get this Supreme Court decision implemented?

Mr. SHAVER. No, sir. I would not know how long it would take. I think the greatness of this country is because of the great expanse of the country and the right of States at times to run their own business along with the United States Government or together. I have no plan by which it can do it. Progress or social justice will have to gradually come from the ground up, from the people, and it cannot be handed down on a silver platter. You must earn it.

Mr. KEATING. Mr. Shaver, would it be an erroneous conclusion to state that this legislation as passed in November 1956, was an effort on the part of the Legislature of Arkansas to avoid the Supreme Court decision on segregation?

Mr. SHAVER. No, sir. This matter came in the election. They had a Governors' election down there. Our group represented, I would say, the most liberal part of the program down there. The governor issued a statement in which he said he would not force against the will of the people down there for any district to integrate. But if one integrated, he also would not force them to disintegrate. For instance, Fayetteville integrated. Charleston integrated. Hoxie integrated. The State power was not used against those districts for them to disintegrate.

Mr. KEATING. Did your group win in that election?

Mr. SHAVER. Yes, sir. The Governor won the election. For instance, the interposition resolution passed 199,511 to 127,360. The school assignment bill passed 214,713 to 121,129.

Mr. KEATING. That was opposed, for want of a better word by the nonliberal elements.

Mr. SHAVER. No; there were other issues. There were other candidates. There were three candidates for governor, and none was supporting the Supreme Court opinion.

Mr. KEATING. But you felt your Governor was coming closest to supporting the Supreme Court opinion of any of the groups?

Mr. SHAVER. On a gradual approach; yes, sir. There are 320,113 white students in school down there. There are 106,659 colored students today. There is a total of 426,772 students.

Another thing would be illuminating, which is that the economy of the country has a lot to do with this. I noticed in the paper here where the Methodists had a conference, and I got these figures from a North Carolina newspaper in 1956. There is a total of 15,042,286 Negroes.

Mr. KEATING. Not Methodists.

Mr. SHAVER. No; Negro population. There is a total of 6,968,199 in the South. Less than a majority are in the South. The reason I brought up the economics of the situation—and when I say South, I mean Arkansas. I do not know anything about the other part——

Mr. KEATING. You include Arkansas and Texas and Oklahoma in that, don't you?

Mr. SHAVER. I am speaking for Arkansas now.

Mr. KEATING. I know, but when you mention the South or the North, you include those as Southern States.

Mr. SHAVER. Yes, sir; or Southwestern States.

Mr. KEATING. Go on with your statement.

Mr. SHAVER. Arkansas is an agricultural State and with the economics with the cottonpicker, for instance, and with the cutting of acreage and things of that kind, our population we have to admit has been decreasing, not only with the Negroes, but with the white people.

Mr. KEATING. Is that literally true that the population of Arkansas has decreased?

Mr. SHAVER. Yes, sir; it has gone down some in the last two reports. May I proceed?

The CHAIRMAN. Yes.

Mr. SHAVER. I won't take much longer.

The CHAIRMAN. You may proceed. It is very interesting.

Mr. SHAVER. In the county next to the Mississippi River—a county right east of where I live—there are 4,582 white students, 7,760 Negro students. In St. Francis County, right south, 4,003 white students, 6,102 Negro students. In Cross County, which is my home, 4,084 white students, 2,253 Negro students. Pulaski County, which I understand has a plan for integrating, and it was not progressing fast enough and the NAACP brought a suit in Federal court in Little Rock before John Miller, and they had a long hearing on that——

The CHAIRMAN. He is a former member of this committee.

Mr. SHAVER. Yes, sir.

The CHAIRMAN. And a very distinguished member.

Mr. SHAVER. Judge Miller heard that case and found, as I recall it—I thought I brought that opinion with me—he approved the plan of the school board after taking all of these things they have to take into consideration, and I think that case is now in the circuit court of appeals. That is in Little Rock, there are 33,000 white students and 11,453 colored students. That is what has been happening over there.

Mr. ROGERS. That is before you adopted this law at the last election, or did this lawsuit occur after that?

Mr. SHAVER. I don't think this law supersedes what they did down there. What I am up here begging this committee to do here is don't amend the law and array the Attorney General of the United States and the powerful arm of the United States Government in civil rights matters against citizens of the United States. That is one thing.

I don't know that I have ever heard of legislation where you set up in the Attorney General's office an Assistant Attorney General and then authorize him to bring suits in damages for private grievances in the name of the United States for the benefit of the aggrieved party against an individual in the United States.

Am I taking too long here?

The CHAIRMAN. No, you just proceed.

Mr. SHAVER. I would like to talk a few minutes about these bills. As I read Mr. Celler's bill, I don't know whether his bill lets you bring a suit in the name of the United States against the aggrieved party. As I read Mr. Keating's bill, it does. I understand Mr. Keating's bill is the President's bill. Why is it necessary, when we are trying to educate all our children, to take away from a local school district the right to administer its affairs? You have the Interstate Commerce Commission, you have all kinds of commissions. You have the Federal Register with rule after rule set up in order to administer this

Government. But when it comes down to the school children, then the Federal Government says, "No, we will abolish the administrative remedy and go directly into Federal court," the effect of which is to take away our school assignment bill.

Mr. KEATING. No, you have completely misinterpreted it, Mr. Shaver. In the first place, H. R. 1151 is primarily directed toward enforcing the right to vote. You will see that is primarily what it is concerned with. In addition, it gives to the Attorney General the same right to bring an action for damages or an injunction for other deprivations of civil rights which are already set forth in the statute for which an individual now has the right to sue for damages.

Mr. SHAVER. That is section 1985.

Mr. KEATING. In that respect it is only procedural.

The CHAIRMAN. I want to state also that my bill, H. R. 2145, you will see page 13 at the bottom thereof permits the Attorney General likewise to bring action.

Mr. SHAVER. Yes, sir. Of course, I do not want to disagree with the committee. It may be that I don't understand what it says. I have read it for a week, and I would like to quote into the record from the civil rights hearing on H. R. 627 of 1956, at page 16, in which it is said:

> The new subsection designated the fifth makes clear that district courts of the United States have jurisdiction of proceedings instituted pursuant to section 1985.

The CHAIRMAN. Where are you reading from?

Mr. SHAVER. This is the 1956 hearings.

The CHAIRMAN. What page?

Mr. SHAVER. Page 16.

Before proceeding under 1985 in the United States courts. Then you cite *Lane* v. *Wilson*, which said you never did have to exhaust the State judicial remedy. Then you say as to State administrative remedy this provision changes the law to a certain extent.

The CHAIRMAN. Is that the testimony of the Attorney General?

Mr. SHAVER. No, sir; that is the civil rights report of 1956 before the Rules Committee.

Mr. FOLEY. The report of the bill.

Mr. SHAVER. Yes, sir; the report of the bill.

The CHAIRMAN. You may proceed.

Mr. SHAVER. Then the Attorney General recommended this provision in his executive communication on civil rights dated April 9, 1956. I have his communication.

I am dead in earnest that what this bill does is to take away the administrative remedy for school districts to try to operate. They will have to be operated directly out of the Federal courts in the districts where they are. Am I wrong in that?

The CHAIRMAN. They do not have to wait until they have exhausted their administrative remedy. They can go immediately to the Federal court through the Attorney General.

Mr. ROGERS. That presents this problem. As you know, under the Brown case, and subsequently, it is a judge-made law according to our interpretation as lawyers of the integration problem. Under that decision, the district courts are authorized to see that they gradually integrate the schools, so to speak. Pursuant to that we have one

example in Tennessee where they went in, made the school board a party defendant, secured certain injunctions, and the school integrated. Then about 3 months later the school board said to the court, "Look, we can't carry out this order because there is a lot of disturbance and we maintain the schools. What will we do about it?"

So the Federal judge notified the Justice Department and the Justice Department sent FBI men down there, and they arrested 16 people who were not even a party to that case. They are now up for contempt for violating this decree.

The problem that confronts this committee—and I have asked many of the lawyers who have appeared before us—is this; that being the status of the situation, what is the best approach? Should it be through the creation of a commission as authorized in section 1 of this bill to make a study of that problem, or should we just forget it and go into the chaos that will result by citing people into court for contempt that are not even parties to a decree, and deny them the right of a trial by jury?

What is your answer as to how you think we should approach that problem?

Mr. SHAVER. As far as Arkansas is concerned, we do not need that kind of legislation. These bills affect the United States as a whole, but we honestly believe they are aimed at the South. If these bills are passed, the Federal Government, in my opinion, can proceed to enforce civil rights in the Federal courts without first having determined whether or not the aggrieved party has exhausted his State administrative remedies. The school districts in Arkansas are autonomous. The directors are our outstanding citizens; they are elected by the people and serve without pay. The districts are financed by school taxes which are voted annually and the State grants additional aid to the various districts. It would be difficult to get school directors to serve if the Federal Government is going to bring suits against them on the basis that they have violated Federal civil rights, although they are charged by State law to assign pupils as provided by our act.

Mr. ROGERS. We will admit all of that. But the situation is that the Supreme Court has spoken and has spoken almost 3 years ago on the matter. We still have the problem. The problem that we are confronted with here is how to best meet it. One suggestion has been made that if we had this Commission to go into it, that we may arrive at some conclusion.

Have you any solution to offer other than that which you have testified of how Arkansas adopted the so-called assignment law? Do you think that alone is sufficient, and that will solve it for Arkansas?

Mr. SHAVER. I believe it will. That is my viewpoint of it. You can never tell the action and reaction of people.

The CHAIRMAN. Is Arkansas's gradual approach consistent with what the Supreme Court said "with all deliberate speed"?

Mr. SHAVER. Yes, sir, I think it is.

Mr. KEATING. It is deliberate, I would think. Whether they are proceeding fast enough is a question.

Mr. SHAVER. Mr. Chairman, what did the Supreme Court say in addition to deliberate speed? They gave great emphasis on the equitable principle. I am quoting from them now.

In fashioning and effecting these decrees the Court would be guided by equitable principles. Traditionally equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs. These cases call for the exercise of these traditional attributes of equity power. At stake is the personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis. To effectuate this interest may call for elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in our May 17, 1954, decision. Courts of equity may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner.

What did they say about prompt and reasonable start? The burden rests upon the defendant to establish at such time as necessary in the public interest and as consistent with good faith compliance at the earliest practicable date.

I would like to make one more point here before I close, and that is, don't you think that the school districts, the people who have the children in the schools down there, that they have the interest of the children at heart, all of them, and are trying to do the best they can. Would you set up a Federal judiciary to try to run our schools when it is utterly impossible for a Federal court to run the schools of this country?

Mr. KEATING. I agree with you, and I would not, and these bills don't do that.

Mr. SHAVER. May I say this: You take Federal Circuit Judge Parker, Dobey, and Timmerman, in which there was a remand of this three-judge opinion in the Southeast United States, talking about the United States Supreme Court:

It is important that we point out exactly what the Supreme Court has decided, and what it has not decided. It has not decided that Federal courts are to take over and regulate the public schools of the States. It has not decided that the States must mix persons of different races in schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided and all that it has decided is that a State may not deny to any person, on account of race, the right to attend a school that the State maintains.

Then it goes ahead and finishes the quotation. We think that the local districts ought to have the right of choice, that is, the school districts. We think the Federal Government in taking away the administrative remedy will destroy the rights of the various States to run their school districts if the power is exercised by the Attorney General's Office.

May I say this and then I am through.

The CHAIRMAN. Are you going to take very much longer?

Mr. SHAVER. No, sir, I am going to take about 5 minutes and then I am through.

The Governor said to tell you that we have peace and harmony in Arkansas. The legislature recently raised the taxes on sales, severance tax and income taxes around $22 million, of which $15 million goes to schools. We need time to solve our problems. There is no problem of franchise in Arkansas. Everybody votes who pays a dollar polltax. Negroes were admitted to the University of Arkansas before they ever had a segregation case. They have been admitted in Fayetteville, and Charleston, and Hoxie since that date. The buses have desegregated in the city of Little Rock. That has come

about locally. If we are allowed to proceed in our own way I think we can do a better job of it than the Federal judges can do.

Fear of coercion from Federal authorities and fear of being forced to do something against the overwhelming sentiment of the people of our State brings on uneasiness and discontent and results in extreme views and attitudes of both sides. Although it may take a long time to bring about social justice you cannot legislate it. It has to come from the hearts of the people. When you compel people to do what they do not believe in their heart is right, it will take the power of a police state in order to carry it out. Real progress wells from the people and is not handed down from above.

I thank you, Mr. Chairman, for your kindness, and I am sorry I overran my time.

The CHAIRMAN. It is all right. We are very grateful to you for what you have told us, Governor, and we are very glad to have you with our distinguished colleague, Mr. Gathings.

Mr. GATHINGS. Thank you.

Mr. SHAVER. We certainly hope that these bills will not pass.

The CHAIRMAN. Our next witness is Mr. Davis Grant, assistant attorney general of the State of Texas, who represents Governor Price Daniel. With Mr. Grant is our distinguished colleague, Mr. Dowdy, who wants to say a few words by way of introduction of the next witness.

Mr. DOWDY. Mr. Chairman, I am sorry, and Mr. Grant is too, that Governor Price Daniel and Attorney General Will Wilson could not be here, but as some of you know the Texas Legislature is holding its biannual session at this time, and there is much to be done. It is just starting out and both of them are new in office, and they had to remain in Austin. But they and we are fortunate to have an able and experienced man as an assistant attorney general who is their representative here and who it is my honor to introduce and present to you.

May I state in so doing that I join in his remarks about the dangers that are inherent in these proposals before us at this time. There was written into our Constitution a complete civil rights protection, namely the first 10 amendments that are known as the Bill of Rights, and these proposals that we have here would lessen rather than strengthen those protections that are guaranteed to us in the Constitution.

This presentation by our assistant attorney general will be based upon the sound, fundamental principles of government. In our State, our officials can and do protect the civil rights of all peoples which is the duty of the State to do, and I feel that each State can do, though I will say that each of you gentlemen would know more about the ability of your own State so to do. I have always felt that each State can best deal with its own problems, having considerations of the rights of all of its people. I would not know the problems, for instance, of New York, but the chairman will know of whether its officials are capable, just as I know that the Texas State officials are capable.

Comment was made this morning that the right to vote is the purpose of this legislation or these proposals that are before us. I will say this about our own State of Texas, that for the past number of years I have not known of any Negro who wished to vote who did not

have the complete freedom so to do, and they have been encouraged to do so. Nor do I know of anyone who could not find employment in any work that he was capable of doing. I know many intelligent Negroes and they are my friends. All of them are proud of their race. It is my opinion that anyone who is proud of his race would and should be righteously insulted by proposals such as are contained in these bills before this committee. When the Irish immigration to the United States was in progress, they were segregated. They would not be admitted, for instance, into hotels. They did not come crying to Congress or to anybody else. But they set out to make a place for themselves in America, and they did so. And any other race can earn any place that it merits in this great Nation of ours.

Therefore, we hope to present this matter on the pure political philosophy that made this Nation great, and I am happy to introduce to you the Honorable Davis Grant, assistant attorney general of the State of Texas, to further present to you his sound comments on these proposals which I commend to you for your consideration.

Mr. ROGERS. Mr. Chairman, our colleague, Olin Teague, called to tell me that he knows Mr. Grant real well. He said he has been one of his friends for his lifetime and recommends him most highly. He said he had an excellent statement to present to the committee.

The CHAIRMAN. Mr. Grant.

STATEMENT OF HON. DAVIS GRANT, ASSISTANT ATTORNEY GENERAL OF THE STATE OF TEXAS

Mr. GRANT. Mr. Chairman and members of the committee, I am Davis Grant of Austin, Tex., an assistant attorney general of Texas. I appear here at request of and on behalf of the Honorable Price Daniel, Governor of the State of Texas, and Hon. Will Wilson, attorney general of the State of Texas. These two gentlemen have requested that I convey to this committee their sincere appreciation for this opportunity to give you their thoughts on H. R. 1151 and H. R. 2145 now before this committee. I personally appreciate your kindness in allowing me to appear.

My appearance here was motivated by a sincere concern of the Governor and attorney general over these two bills which, in their opinions, are basically bad legislation, and more especially, if enacted as law would exercise a corrosive effect upon the sovereignty of the States of the United States.

Gov. Price Daniel recently said in a speech to the Texas Legislature:

> Our Nation is at the crossroads. On the one hand there is the wide open, easy but dangerous highway of further centralization of power that has led to the loss of freedom and self-government in every nation which has traveled that way. On the other hand there is the safer but more difficult road charted by the fathers of our own country and paved with the principle that freedom is preserved best by keeping as much of the government as possible close to the people.

Attorney General Will Wilson said, in taking his oath of office:

> Where the boundary between national and State sovereignty is put in issue, as it frequently is in many types of cases, we shall consistently support State sovereignty.

As the Supreme Court of the United States said in 1876:

> We have in our political system a Government of the United States and a government of each of the several States. Each of these governments is distinct

from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other. * * * The Government of the United States is one of delegated powers alone Its authority is defined and limited by the Constitution. All powers not granted it by that instrument are reserved to the States or to the people. No rights can be acquired under the Constitution or laws of the United States except such as the Government of the United Sates has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States.

That is *United States* v. *Cruikshank* (92 U. S. 542, 23 L. Ed. 588).

So it is the duty of us all, both private citizens and public officials, to see to it that this philosophy of government, established as fundamental law by our Founding Fathers, is defended—for it is the defense of freemen.

Getting down to specific objections to these bills, H. R. 1151, part I, would establish a Commission on Civil Rights. Such a Commission is totally unnecessary and funds spent by it would be a shameful waste of public moneys.

Senator Herbert H. Lehman, an ardent champion of most civil rights legislation, had this to say about a similar proposal in a statement before the Committee on the Judiciary, United States Senate, 84th Congress, 2d session, at pages 344 and 345:

There are three bills pending before you reflecting the same proposal to create a Federal Commission to study, conduct investigations, and report on the status of civil rights in our Nation today. I myself do not give this proposal a top priority at this late stage of the congressional session. Civil rights have been extensively studied in previous years by many congressional committees, including this one, by many private groups, and by the President's Committee on Civil Rights in 1947. All of this study material is available.

Aside from the fact that such a Commission would be a wasteful duplication, there is absolutely no necessity for the Congress to provide for the creation of such a body since the President already has that power. Again quoting from Senator Lehman's statement

I must point out that if the administration is sincerely interested in creating a commission—and it has established much less important study commissions by Executive order—the President could easily proceed to appoint a commission tomorrow.

Further, the power of subpena given the Commission is too broad. It gives rise to the possibility of requiring the presence of any citizen in the country to appear at hearings perhaps hundreds of miles distant, without mention of reimbursement for expenses thus incurred, in order to answer any charges whatever, no matter how ridiculous. It would also empower the Commission to subpena books, papers, and documents of not only private individuals but of the States, without their consent, thus infringing upon their freedom of action. There is no limit to the time the Commission might hold such records. Thus, the Commission could indefinitely impound in Washington the entire records of the State of Texas, if the Commission "deems it advisable."

The CHAIRMAN. I do not think the Commission would have that right, because under the Constitution all powers not specifically delegated to the Federal Government are reserved to the States. I don't think the Commission under that reserve power clause could subpena the records of a sovereign State. I cannot conceive of that under any legislation, and under the bills that set up the Commission particularly.

Mr. GRANT. Mr. Celler, I do not think there is any restriction under this bill. We think there are certain constitutional restrictions, and I agree with gentlemen who have appeared here before me today that probably these bills are unconstitutional. At any rate, I am a great believer in the written law, and I think the limitations on this Commission should be spelled out if you see fit to pass this legislation.

The CHAIRMAN. If these bills pass this little colloquy of ours indicates very clearly that there was no such power intended for the Commission; that they can go into your State and serve a subpena on your Governor, and obtain the records of the State of Texas, that is not in the cards as far as any of these bills are concerned.

Mr. GRANT. Such arbitrary powers remind one of a grievance the American colonists had against the King of England. I am quoting from the Declaration of Independence.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our People, and eat out their substance—

And again:

For transporting us beyond Seas to be tried for pretended offenses.

H. R. 2145 would establish not only a Commission on Civil Rights, title I, part 1, but would create Joint Congressional Committee on Civil Rights (title 1, pt. 8). The above remarks concerning H. R. 1151 would be appropriately applied to similar sections of H. R. 2145, with this additional observation. It is contradictory for one bill to recite the need for study, evaluation, and recommendation as to remedial legislation, while contemporaneously therewith accompanying bills are submitted which go about as far as conceivably possible in enacting the legislation about which it is said further study is needed.

I might interject here at this time we would be happy for any congressional group to investigate us in Texas. We have nothing to hide. I don't think you would find anything wrong with us down there. It is not that I am against the Congress looking into the matter. We think it is unnecessary.

Parts II, III, and IV of H. R. 1151 provide for an additional Assistant Attorney General and for the institution of civil actions by the Attorney General—

for the United States or in the name of the United States but for the benefit of the real party in interest, for redress, or preventive relief—

in cases of alleged violation of a person's civil rights. This is a totally new concept of the functions of our Federal Government and specifically the Justice Department. It would make a legal aid clinic of that Department, and if enacted, the Attorney General will certainly need more like 100 new assistants than 1 to take care of all who would seek free legal assistance.

One amazing feature of this section of the bill is the fact that apparently it authorizes the Attorney General to file a lawsuit in behalf of an individual without that individual's consent or even knowledge. If such a thing should occur in Texas it could be a violation of our penal statutes against barratry. It would also be in violation of the Canon of Ethics of the American and Texas Bar Associations.

It might be said that this measure is preventive rather than punitive and that an injunction restraining an illegal act would be the only relief sought. The use of the term "redress" would open the door

for civil actions for damages. Black defines "redress" as "to receive satisfaction for injury sustained." Thus if this bill becomes law you would very probably have the Attorney General of the United States seeking money damages for a private individual for real or imaginary wrongs and the Federal Government would foot the bill, even the court costs.

This provision of H. R. 1151 is an affront to the American bar, largely composed of private practitioners. If any person has a legitimate claim for money damages, or any other claim for that matter, that person can certainly receive justice through the representation of a private attorney.

Another rather unique feature of the measure providing for civil actions for money damages is that such actions can be filed in a Federal district court without first exhausting State remedies and also without regard to the amount of damages claimed. In other words, you could have the ridiculous situation of the Attorney General of the United States filing a suit for damages in the amount of $1 in a United States district court.

Mr. FOLEY. That is true today in civil-rights cases. You do not have to meet the jurisdictional amount in controversy requirement.

Mr. GRANT. Is it true that the Attorney General can file a damage suit on your behalf or a private individual?

Mr. FOLEY. No, sir, but as far as a civil-rights action is required, there is no requirement of the $3,000 amount in controversy.

Mr. GRANT. The point is that I scarcely see the reason for reducing the Office of the Attorney General to one representing a private individual in a dollar lawsuit. That is the point.

Last June Attorney General Brownell called a conference in his offices on the congested conditions of courts. I was fortunate enough to attend, representing the National Association of Attorneys General. There we discussed possible solutions to the crowded conditions of our Federal courts, and, incidentally, learned that our State courts are less crowded than our Federal courts. If H. R. 1151 becomes law, our Federal courts will be jammed with suits, many without any real basis in fact.

H. R. 2145, title II, enlarges upon existing law defining certain acts as violation of the criminal law. In this connection I would like to call your attention to the statement Attorney General Herbert Brownell delivered to the Committee on the Judiciary, United States Senate, on Wednesday, May 16, 1956. See page 77 of the report of the hearings. With reference to a similar measure then before Congress, General Brownell said:

> There must certainly be grave doubt as to whether it is wise to propose at the present time any further extension of the criminal law into the extraordinarily sensitive and delicate area of civil rights.

At another point in his statement Mr. Brownell speaks almost apologetically in reference to existing Federal law. Although the following quotation from the Attorney General's statement is rather lengthy, I think it is most significant and should prove of great value to this committee in considering this bill:

> Another illustration: The United States Supreme Court recently reversed the conviction of a Negro sentenced to death by a State court because of a showing that Negroes had been systematically excluded from the panels of the grand

and petit juries that had indicted and tried him. In so doing the Supreme Court stated that according to the undisputed evidence in the record before it systematic discrimination against Negoes in the selection of jury panels had persisted for many years past in the county where the case had been tried. In its opinion the Court mentioned parenthetically, but we thought pointedly, that such discrimination was a denial of equal protection of the laws, and it would follow that it was a violation of the Federal civil-rights laws.

Accordingly, the Department of Justice had no alternative except to institute an investigation to determine whether in the selection of jury panels in the county in quesion the civil-rights laws of the United States were being violated, as suggested by the record before the Supreme Court. I think it must be clear to you that the mere institution of this inquiry aroused a storm of indignation in the county and State in question. This is understandable since, if such violations were continuing, the only course open to the Government under the laws as they stand now, was criminal prosecution of those responsible. That might well have meant the indictment in the Federal court of the local court attachés and others responsible under the circumstances.

Fortunately the Department was never faced with that disagreeable duty. The investigation showed that, whatever the practice may have been during the earlier years with which the Supreme Court's record was concerned, in recent years there had been no discrimination against Negroes in the selection of juries in that county.

Supposing, however, that on investigation, the facts had proved otherwise. The necessarily resulting prosecution would have stirred up such dissention and ill will in the community that it might well have done more harm than good. Such unfortunate collisions in the criminal courts between Federal and State officials can be avoided if the Congress would authorize the Attorney General to apply to the civil courts for preventive relief in civil-rights cases. In such a proceeding the facts can be determined, the rights of the parties adjudicated and future violations of the law prevented by proper order of the court without having to subject State officials to the indignity, hazards, and personal expense of a criminal prosecution in the Federal courts

Mr. Brownell's suggested remedy, that of a civil action involving the use of injunctions, would probably cause just as much friction as he admits that criminal actions cause. Criminal proceedings are against individuals but civil actions involving injunctive relief may be against officials acting in an official capacity for the State or any of its political subdivisions. Thus you could have the State pitted against the Federal Government. This would most certainly result in a sharper conflict than in action against a private individual ever would.

I would like to point out that under the provisions of H. R. 2145, murder is made a Federal crime. This could be the opening wedge to deprive States of all jurisdiction in criminal cases. In view of the case of *Pennsylvania* v. *Nelson*, this is not idle speculation. In that case the Supreme Court held that the Federal Government had preempted the sedition law of the State of Pennsylvania.

Many other comments could be made concerning these two measures, but it is not my desire to burden this committee with a lengthy dissertation.

Again I appreciate your courtesy in allowing me to appear, as representative of the Governor and attorney general of the State of Texas.

The CHAIRMAN. Thank you, Mr. Attorney General. We appreciate your coming.

Mr. GRANT. Thank you, sir.

The CHAIRMAN. That will conclude the witnesses for today.

At this point in the record I would like to insert the following:

Statement of Congressman Albert Rains, of Alabama.

Statement of Congressman John L. McMillan, of South Carolina.

Statement of Congressman J. L. Pilcher, of Georgia.

Statement of Congressman John A. Blatnik, of Minnesota.
Statement of Congressman Prince H. Preston, of Georgia.
Statement of Congressman George Mahon, of Texas.
Statement of Congressman A. Sydney Herlong, Jr., of Florida.
Statement of the National Council of Churches of Christ in the United States of America.
Letter of R. J. Wilkinson, Jr., of Huntington, W. Va.
Resolution of 31st Women's Patriotic Conference on National Defense, Inc.
Statement of Benjamin Wyle, general counsel; Max Zimny, assistant general counsel; and John W. Edelman, Washington representative, the Textile Workers Union of America, AFL–CIO.
Telegram from State Council of Branches of NAACP of Jackson, Miss.
Letter from Clarence Mitchell, director of the Washington Bureau of the NAACP.
Letter from James M. Hinton, of the South Carolina Conference of NAACP.
Letter from George Washington Williams, of Baltimore, Md.
Report dated February 21, 1957, to Judiciary Subcommittee No. 5 from Warren Olney III, Assistant Attorney General.
(The documents follow:)

STATEMENT OF CONGRESSMAN ALBERT RAINS, DEMOCRAT, OF ALABAMA

Gentlemen, I appreciate this opportunity to express my views on the pending legislation

During my years of service in the Congress, I have consistently opposed the numerous vote-bait bills with which the Congress is annually deluged in the name of civil-rights legislation But never in the ominous course of this demagogic issue have I been more acutely alarmed Today we have an administration calling for extraordinary powers to pry into the privacy of all our citizens, to overrun our State courts and State laws and to violate the intent of certain amendments to the Constitution itself

The administration proposes to create an Executive Commission on Civil Rights and to vest this Commission with a power which even Congress does not possess You gentlemen here on the Judiciary Committee do not have the subpena power Only three committees of the House of Representatives hold this power. Surely you will not be willing to grant subpena powers to such a Commission as has been proposed, a Commission which can accept and utilize the services of volunteers or unpaid personnel It is not difficult to picture the army of meddlers, from all of the lobbies and other pressure organizations, who would hasten to offer assistance to such a commission. And it is not difficult to imagine the chaos which would ensue.

Let me remind you gentlemen that althought this proposal was certainly made to entice the Negro vote in the South once this kind of legislation goes on the statute books every section of the United States will be concerned I am not calling the measure an anti-South bill but rather an anti-American bill, for the grievances, more imaginary than real, which such legislation would incite and inflame, would stretch from border to border and coast to coast.

Thus it is no wonder that the Attorney General is also requesting that a special Civil Rights Division be set up in the Justice Department. He knows that once such a commission starts to function his Department will be overwhelmed with complaints, made in the name of the catch-all "civil rights."

I am opposed to creating another bureaucracy and to expanding the powers of the Attorney General Since this administration took office in 1953, we have seen the mushrooming of commissions, the centralization of power instead of the decentralization which was pledged in campaign oratory. I have not heard all of the testimony before this subcommittee, but I wonder if the Attorney General has given you gentlemen any figures in regard to the cost of his civil-

rights program. How many additional employees in the Justice Department, how many in the Commission, how many investigators to go about the country checking on the myriad complaints, how many clerks to keep the records, issue requests for injunctions and the like, which this bill would unquestionably bring about.

Likewise, I oppose the establishment of a Joint Congressional Committee on Civil Rights. I hope to live to see the day when this political football is kicked out of Congress for good and all.

The bill which you are considering, asks for Federal protection against lynching. This is ridiculous. There is no need and no justification for antilynching legislation. This type of legislation is political demagoguery at its height.

There are other features of the administration bill which would be too absurd for comment, had they not been offered in a serious vein. One of these is the Attorney General's request to seek injunctions to restrain persons who are "about to engage in any acts or practices which would give rise to a cause of action." I am wondering if the Department of Justice now possesses unusual psychic powers or if they plan to rely on crystal balls.

Probably the most serious threat to the Constitution comes in that part of H. R. 1151 which would substitute the Attorney General and the Federal courts for the State laws and State judicial systems in determining how our elections are to be conducted. Perhaps the administration was so inspired by the Supreme Court's disregard of precedent in the school segregation case, that it now feels free to ignore the real intent of the 14th amendment. Students of the Constitution know full well that the Congress which submitted that amendment made it plain they wanted no interference with the freedom of our elections. While the Congress is in no way responsible for what the Supreme Court did, we are certainly responsible for the future of this proposal and I cannot conceive that any Members of this Congress are willing to cede control of State and local elections to the Attorney General.

Gentlemen, let me say that I question the motivation behind many features of this bill. And I am amazed that such a brazen attempt to knock down our State laws and to expand Executive powers has come from an administration whose leader said, at the Governors' conference in Seattle only 4 years ago:

"I am here because of my indestructible conviction that unless we preserve in this country the place of State government with the power of authority, the responsibilities and the revenues to discharge those responsibilities, then we are not going to have America as we have known it. We will have some other form of government."

It is my belief that enactment of this bill would indeed be a giant step toward that "some other form of government."

STATEMENT OF HON. JOHN L. MCMILLAN, OF SOUTH CAROLINA

Mr. Chairman and members of the House Judiciary Committee, I want to thank you for giving me an opportunity to appear before your committee and make a few statements on the so-called civil rights bill now being considered by your committee. I have read some of the high-sounding phrases in support of this proposed legislation; however, I am certain that you will agree with me that the purpose of this legislation is to single out one section of the United States to be used as a whipping post for the sole purpose of gaining votes in another section of the country.

I know that your committee is made up of some of the ablest attorneys in the United States and I am certain that you do not believe that this type of legislation will work successfully here in a free democracy. I can't believe that Russia has any legislation in it's statute books with any more far-reaching effects on the private affairs of its citizens than the proposed legislation you are considering here at the present time. I certainly feel that every person in this country is enjoying full civil rights at the present time and I can see no need for any new civil rights legislation.

Certainly every person is adequately protected by the provisions of the Constitution and its amendments. I would like to warn the members of this committee that it is true that if this proposed legislation becomes a law, it will be directed toward the Southern States; however, it is my sincere opinion that within a few years other sections of this country will be affected and faced with the same problems we are confronted with in the Southern States and we all

know that once an act is placed on the statute books, it is rather difficult to have same repealed.

I cannot understand where the complaints mentioned by the Attorney General can be coming from as we haven't had any race disorder whatsoever in the State of South Carolina or, at least, none has been called to my attention. We, at the present time, have good race relations between the white and the colored people in our State; however, if we continue to permit people from other States with ulterior motives to propagandize the colored race in South Carolina, we will soon be working against each other rather than working together.

The people in the South, both colored and white, were born and reared side by side They understand each other and up to the present time have been able to satisfactorily solve their problems It is extremely regretable that antagonists from other sections of the country have decided to make a definite effort to break the good relations between the colored and white people in the South, especially since we have recently erected the finest school buildings in the United States for the colored people in our State I don't know of any race of people that has improved more during the past 30 or 40 years than the colored people and they certainly have the white people of my State to thank as they have been patient and have used every effort to teach them to obey the laws of our State and country and not indulge in any type of violence

I do hope that the members of this committee will not permit their zeal for political advantage to overpower their good common sense. I certainly believe that the colored people should be guided by the people who have worked shoulder to shoulder with them without any extreme difficulty during the past 50 years in preference to people who are paid to spread propaganda and make certain people believe that they are not receiving their just rights under the Constitution. Again, I want to thank you for permitting me to express, in a few words, my opinion on the proposed legislation you are considering at the present time.

STATEMENT OF HON J L PILCHER, MEMBER OF CONGRESS, SECOND CONGRESSIONAL DISTRICT OF GEORGIA

Mr Chairman, I deeply appreciate the courtesy this committee has extended to me in that I have been allowed this time to make a few remarks on bills H. R. 1151 and H R 2145 now pending before the Judiciary Committee.

I am a farmer and businessman, Mr Chairman. Being such I do not intend to go into all of the legal aspects here today I do not intend to try and bombard this committee with bombastic rhetoric or lofty platitudes because, gentlemen, I would be the first to unblushingly admit that I am not an eloquent speaker. I do not wish to imply that I have a quarrel with a more eloquent approach. In more experienced hands such an approach can be not only persuasive but certainly most effective

I do, however, call to this committee's attention the fact that I can read the Constitution of the United States and it is my claim tha any person who can do this and is able to apply no more than reasonable so-called horsesense, can for himself, determine without very much difficulty, that our Founding Fathers did not intend for the Federal Government to have such powers as are embodied in these bills It is my thoughtful and considered opinion that the powers which will be granted to the Federal Government will be unconstitutional in every detail It is my feeling that under our system of checks and balances that the Congress should exert every influence and power to refrain from breaching the Constitution of the United States. Now, a few minutes ago I stated that I believed I could read and apply reason and horsesense in interpreting what I read. Let me quote article X of the United States Constitution: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

No place in the Constitution do I find authority for the Federal Government to have control over the matters which these two bills attempt to convey. Regardless of motives for or against this legislation I believe that Congress would be going beyond the limits of the powers delegated under the Constitution and would be trespassing upon the rights of the States and such action would be unconstitutional and would of necessity be null and void in its inception. In any case if the rights of all States are to be changed and historic principles are to be abandoned, surely such changes should be brought about by a constitutional amendment.

Since my opposition to this legislation is based primarily on the Constitution, I do not intend to go but one step beyond that contention. However, in fairness to all concerned I would feel remiss in my duty if I did not point out to one and all that those whom it is claimed such legislation would benefit will without question be hurt the most. Gentlemen, people's inner feelings cannot be legislated upon, customs cannot be successfully legislated upon, nor can pride and morals be legislated upon.

When I was sworn in as a Member of Congress, I took an oath which to me was both solemn and binding. I swore, gentlemen, that I would uphold the Constitution of the United States; and as I see it I believe a vote for these bills would constitute a breach of that oath.

Mr. Chairman, thank you very much for granting me this opportunity to make my views known to this committee.

Thank you.

STATEMENT OF HON. JOHN A. BLATNIK, OF MINNESOTA

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to appear before you and express my views on civil-rights legislation pending before this subcommittee. We have an opportunity this year to pass what I think could be one of the most important pieces of social legislation to come out of the Congress since before the war. In a field where year after year an effective congressional majority has failed to consolidate, there at last seems to be some correlation between the need for civil-rights legislation and appreciation of that need. What I hope is this: That we might have the courage, the determination, the vision to convert cognizance into action.

One need not possess a doctor's degree in commonsense to perceive the civil-rights gains which in recent years have been achieved. Increasingly, Americans from every walk of life, from every section of the land, have come to recognize that matters of civil rights are not matters of partisan character. Nor, accurately viewed, can they be considered matters of bipartisan character. Civil rights, in their truest sense, are nonpartisan in kind. They are matters of fact, not matters of opinion. They are those rights which belong to a person as a result of his membership in organized society. They are those natural rights adhering to man as man which have been deemed worthy of definition and protection by the state.

Being nonpartisan by nature, civil-rights legislation need not be labeled as the "administration bill" or the "Democratic bill." Both the bill submitted by the administration and that one introduced by the distinguished chairman of this committee provide excellent springboards to progress in the civil-rights field. Both have my wholehearted support.

Speaking of progress in this field, no one can deny that in recent years the spirit of our democratic tradition has been tapped to make admirable improvements in both the definition and protection of these rights. Contributions from our Federal courts and some of our State legislatures have been especially praiseworthy in this respect. Under the leadership of Gov Orville Freeman, my own State of Minnesota now has an FEPC law of which we in Minnesota are mighty proud. Thus, through institutional decisions and legislation, together with the courageous, tireless efforts of many of the voluntary groups within our pluralistic society, much has been done to promote the cause of equality—in justice, in opportunity, and in civil rights.

But the task is far from finished. Although it is true that public-school segregation has been declared unconstitutional by the Federal courts, it is equally true that the great majority of Negro children in the South still attend class in schools which are segregated. Although it is true that in both private and public employment, merit and ability are increasingly decisive, it is equally true that literally billions of dollars are lost each year due to discrimination on grounds of race, color, or religion. And although it is true that certain once-legal techniques designed to disenfranchise have been nullified by the Supreme Court, it is equally true that thousands of our citizens still do not vote because they fear injury or economic reprisal.

I believe, Mr. Chairman, the bills under consideration here represent a sure step in the direction of justice. Establishment of a Civil Rights Commission, endowed with power to subpena and enjoined to appraise existing laws as well as charges of discrimination due to race, color, or religion, is a wise plan at this stage. By directing attention to present inequities and establishing a schedule

of problem priorities, the Commission could perform invaluable public service. Equally commendable are the proposed measures for strengthening the Justice Department's capacity and authority to prevent voting violations. Taken together, these proposals represent an attempt to meet painfully vexatious problems with justice and resolve. Although they are not designed to spell out an automatic legal remedy for every conceivable type of discrimination, they are sufficiently specific to promote an enlarged electorate and sufficiently general to permit examination of a variety of injustices.

I wholeheartedly endorse the civil-rights bills before this subcommittee and urge their speedy approval.

STATEMENT OF HON. PRINCE H. PRESTON, MEMBER OF CONGRESS

Mr. Chairman, my purpose in appearing before your committee is to express in the most vigorous terms my opposition to the so-called civil-rights legislation which you have under consideration.

I shall not dispute the intent of the sponsors of this legislation, but I say to you with the utmost emphasis that the enactment of the laws contemplated here will defeat the very purpose for which they were intended

Instead of guaranteeing civil rights for the citizens of this country, such laws would surely deprive our citizens of their most precious liberties.

Here we have the tragic means of junking our hallowed Bill of Rights so wisely incorporated in the first 10 amendments to the Constitution and substituting therefor legislation that invites and encourages, nay, demands the most vicious bureaucratic tyranny.

Madam Roland has said, "Oh liberty, liberty, what crimes have been committed in thy name." Today we may say with equal truth, "Civil rights, civil rights, what tyranny is being created in thy name."

If this Congress is so unwise as to enact this vicious civil-rights legislation, we may be sure that our citizens of every race, creed, and color will be oppressed, harassed, and persecuted in ways that would shame the inspired patriots who framed our Constitution.

In a world torn by strife and bitterness, surely the United States of America, to which the free world looks for leadership, should seek domestic tranquillity. Surely we should seek to avoid strife, bitterness, and violence among groups of our own citizens

But this misnamed civil-rights legislation will, as surely as night follows day, foment the bitterness, the strife, and the violence that we should so earnestly seek to avoid.

These encroachments upon the Bill of Rights, these invasions upon the privacy of our citizens, these invitations to unreasonable search and seizure will be no less abominable to our people because they are accomplished under the thin disguise of legality with which this legislation seeks to cover these violations of our constitutional rights

In the tragic event of the enactment of this legislation, when these tyrannical powers are entrusted in the hands of zealous, visionary do-gooders, I would reverently invoke divine power to save our Republic. For surely we are entering on the pathway to the destruction of our precious constitutional freedoms, if this Congress places this awful, abusive power in the hands of any branch of the Federal Government.

I implore you, gentlemen of this subcommittee, vote down this legislation and perform a service for your country that will be remembered with gratitude by generations of Americans yet to enjoy the rights and freedoms of this citadel of liberty.

STATEMENT BY CONGRESSMAN GEORGE MAHON

I doubt that there is anything I can add to the testimony which has already been presented before this committee, but I want to go on record as unalterably opposing the proposed civil-rights bill. I urge the committee to suspend consideration of the measure.

STATEMENT OF CONGRESSMAN A. SYDNEY HERLONG, JR.

Mr. Chairman, I appreciate the privilege of appearing before this committee in opposition to the so-called civil-rights bill which this group is now considering.

I know that the ground has been rather fully covered on the subject matter involved in the bill, but I cannot let this opportunity pass without expressing my views.

In the first place, I don't know of anyone in my State who wants to deprive anyone else of his civil rights. This legislation would deprive a great many people of their rights. The very premise which is set up by the proponents as a foundation for need of this legislation is false.

One of the reasons cited for this legislation was that a bombing occurred in my district a few years ago, and one of the proponents testified that the FBI was powerless to move in and investigate because of the lack of authority. He said further that the State would do nothing about it.

I hereby categorically deny both such statements and assert that the person who made them, if he did not know the truth, could have easily found out the truth by contacting the FBI

I am attaching herewith and making a part of my statement a letter addressed to the members of this committee from the attorney general of Florida. He tells this committee just what was done, including the fact that the FBI did participate in the investigation.

A member of this committee was credited with having said that opponents of this legislation were given to making extravagant statements as to what would happen if this legislation were passed.

It seems to me that the extravagant statements were made by the people who propose this legislation and who, in the first place, have not the slightest idea of conditions in the South, and who, in the second place, do not take the trouble to find out for themselves. They simply listen to what the Communist-inspired NAACP tells them are conditions in the South.

The NAACP inadvertently has done a greater disservice to the Negro than all the Simon Legrees put together in the history of our country could ever have done.

In their anxiety to get the blessing of the NAACP the proponents of this type of legislation have overlooked the many basic rights of citizens of all races.

The fact that the Attorney General may institute and collect damages from an individual because it is said that the individual was about to engage in an attempt to threaten to violate someone's civil rights would create in itself a new era in jurisprudence of our land.

This is a Committee on the Judiciary and it is supposed to follow sound practices of law. It should not be given to going off on tangents for political or other considerations

I hope the committee will weigh well its action and the effect that any improvident action by this committee will have on the whole country.

STATE OF FLORIDA,
OFFICE OF THE ATTORNEY GENERAL,
Tallahassee, February 8, 1957.

MEMBERS OF THE HOUSE JUDICIARY COMMITTEE,
United States Congress, Washington, D. C.

GENTLEMEN: I have just become acquainted with the statement of Congressman James Roosevelt, set out in civil-rights hearings in July 1956, wherein it was charged by Mr Roosevelt that Harry Moore and his wife, Lucy Moore, were bombed to death in the community of Mims, Fla This instance was cited by Congressman Roosevelt as one of his reasons for advocating civil-rights legislation, saying that the State of Florida was unwilling to take any action toward seeking the perpetrators of that crime and that under the existing law that FBI was powerless to interfere Mr. Roosevelt contended that if the FBI and the Federal Government had had the authority to investigate that case the murderers probably would have been apprehended.

As attorney general of the State of Florida, I am familiar with the incident, and I know that the State and local authorities did zealously work on this case and that the FBI was invited in and did make a full investigation. I challenge and deny positively any statement by Mr. Roosevelt or the NAACP that the FBI was not invited in and allowed to participate. Further, I think that in the interests of justice the FBI should be called upon to testify as to the truth of Mr. Roosevelt's allegations so that they could not be used as a basis for justifying such vicious legislation.

Respectfully,

RICHARD W. ERVIN,
Attorney General of Florida.

[Excerpt from Associated Press dispatch appearing in the Tallahassee Democrat on December 26, 1951]

MIMS —A bomb explosion Tuesday night killed a Negro prominent in national affairs of his race. He was Harry T. Moore, 46, State secretary of the NAACP. * * *

[Excerpt from December 27, 1951, issue of the Tallahassee Democrat]

* * * Federal, State, and Brevard County officials were probing the case with unannounced results as to what kind of bomb it was, or who might have been responsible. * * *

The Federal Bureau of Investigation sent two agents, and Robert W. Wall, FBI agent in charge in Florida, said the Department of Justice would decide whether a complete investigation is to be made. * * *

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST
IN THE UNITED STATES OF AMERICA,
New York, N. Y.

To the House Judiciary Subcommittee:

My name is Ralph M. Arkush I am the recording secretary of the general board of the National Council of the Churches of Christ in the United States of America. The council is constituted by 30 Protestant, Anglican, and Eastern Orthodox communions, with a total membership of 35 million. The general board is the governing body of the national council between the triennial meetings of the assembly

On October 5, 1955, the general board adopted the following statement of policy:

"Religious liberty and indeed religious faith are basic both historically and philosophically to all our liberties.

"The National Council of Churches holds the first clause of the first amendment to the Constitution of the United States to mean that church and state shall be separate and independent as institutions, but to imply neither that the state is indifferent to religious interests nor that the church is indifferent to civic and political issues

"The National Council of Churches defends the rights and liberties of cultural, racial, and religious minorities. The insecurity of one menaces the security of all. Christians must be especially sensitive to the oppression of minorities.

"The exercise of both rights and liberties is subject to considerations of morality and to the maintenance of public order and of individual and collective security.

"Religious and civil liberties are interdependent and therefore indivisible.

"The National Council of Churches urges the churches because of their concern for all human welfare to resist every threat to freedom."

The third paragraph, pledging the council to the defense of the rights and liberties of minorities, is relevant in the House's consideration of proposed civil rights legislation, and the entire pronouncement is my warrant for calling it to the attention of the House Judiciary Subcommittee.

Let me quote also a relevant paragraph from a series of resolutions adopted by the general board on December 1, 1955.

"The national welfare and the effectiveness of America's witness for freedom in the world community are so critically influenced and conditioned by our behavior in the race situation that we urge all agencies of government—local, State, and Federal—to resist the temptation to allow possible partisan political advantage to inhibit them from the responsible and courageous maintenance of human rights and the furtherance of justice."

Appended to this statement are:

(*a*) A quotation from a commentary prepared by staff officers of the national council, and filed with the Senate Judiciary Subcommittee on November 10, 1955. The quotation is the portion of the commentary that has to do particularly with the third paragraph of the pronouncement included above.

(*b*) Statement by American Baptist Convention

(*c*) Statement by Congregational Christian Churches.

(*d*) Statement by Episcopal Church.

(*e*) Statement by Methodist Church.

(*f*) Statement by Presbyterian Church, United States of America.

(*g*) Statement by United Lutheran Church.

I am not authorized to express a judgment as to the relative merits of the various bills which the subcommittee will consider. It is evident however from the official actions quoted above and the appended statements that the concern of the council will not be met, as far as national legislation is involved, by action less effective in substance and in orientation than that which the President of the United States has been for some time urging, and has now again proposed, indicated in 4 points, in his annual message to Congress on the state of the Union, January 10, 1957. These points are also included in the Senate subcommittee's prints of an Omnibus Civil Rights Act of 1957.

It is difficult to see how, with action less resolute and less specific, the rights and liberties guaranteed by the Constitution are to be upheld in practice.

Respectfully submitted,

RALPH M ARKUSH,
Recording Secretary.

APPENDIX A

[Extract from statement of November 10, 1955, by staff officers of the National Council of Churches to the Senate Judiciary Subcommittee on Constitutional Rights]

The concern of a large body such as the National Council of Churches for small groups is a matter both of conscience and of self-interest. Tolerance, understanding, brotherhood—these are of the essence of high religion. Religion denies its own essential truth when it persecutes or ignores a persecution.

And there is no valid basis for defending the rights of a majority which is not equally valid for defending those of a minority.

The security of these rights lies chiefly in a general attitude, frame of mind, or atmosphere prevailing in the society in question, which will be quickly dissipated if any rights are violated and if any minority is persecuted or denied its just affirmation.

We cannot therefore remain indifferent or passive when Jews, Roman Catholics, Protestants, or adherents of other religious faiths are persecuted or made second-class citizens by totalitarian regimes, or other governments, on any continent. Still less can we remain indifferent when we witness the erosion or violation in our own country of the rights of American Indians, Negroes, conscientious objectors, or Jehovah's Witnesses.

APPENDIX B

[Extract from resolutions adopted by the American Baptist Convention, June 22, 1956]

2. CIVIL RIGHTS

We recognize that during the past 10 years great strides have been made in race relations in America and that it was a logical next step for the Supreme Court to declare 2 years ago that our public schools must be integrated to assure equality of educational opportunity.

We fully support the Supreme Court decision and deplore the resistance to this decision in certain States where integration of public education has met organized opposition.

Our convention has spoken out against segregation and has repeatedly urged church leaders to work as unceasingly for a nonsegregated church as for an integrated society.

We rejoice that integration is progressing in the churches of our American Baptist Convention. Recent staff and missionary appointments testify to our intent as a religious fellowship to see that there is no racial "wall of separation" in our common service in the kingdom. At the same time, we confess the urgency of accelerating this trend, which still is marked by futile effort, insincerity, and unwillingness to change.

Since the probability of developing integrated church congregations is contingent on the spread of open housing, we acknowledge our responsibility to work for conditions in our communities which will assure to persons the right to rent or own a home anywhere in the community solely on the basis of personal preference and financial ability rather than on the basis of race, creed, or color.

Thus, in prayer and in penitence for our own failures, we pledge ourselves to work at all levels for justice, equality, and brotherhood among the races of America.

APPENDIX C

[Extracts from social resolutions adopted by the general council of the Congregational Christian Churches, June 20–27, 1956]

We note with gratification that our Nation, through decisions made by its highest court, is now committed to eradicate segregation, based on race, from public services and institutions, including schools and colleges.

* * * * * * *

It is our firm conviction that the constitutional rights of all persons to engage in free and open discussion of all the issues in race relations must be assured, along with the right to vote and to join organizations of their own choice, without becoming the objects of economic reprisals, threats, or acts of violence.

APPENDIX D

[Extract from The Church Speaks Christian Social Relations, General Convention, Episcopal Church, 1955]

FULL FELLOWSHIP OF RACES IN CHURCH AND COMMUNITY

Whereas Almighty God, through His Son our Lord Jesus Christ, has offered salvation to all the races of mankind; and

Whereas our church has declared, through the general convention, the Lambath conference, the Anglican congress, the National Council of Churches of Christ in the United States of America, and the World Council of Churches, that unjust social discrimination and segregation are contrary to the mind of Christ and the will of God as plainly recorded in Holy Scripture; and

Whereas this church in thanksgiving can proclaim that now in every diocese and missionary district every race has full representation in its councils; and

Whereas the Supreme Court of these United States has ruled that every citizen shall have open access to the public schools and colleges of the entire Nation: Therefore be it

Resolved, That the 58th General Convention of the Protestant Episcopal Church in the United States of America, now commends to all the clergy and people of this church that they accept and support this ruling of the Supreme Court and, that by opening channels of Christian conference and communication between the races concerned in each diocese and community, they anticipate constructively the local implementation of this ruling as the law of the land; and be it further

Resolved, That we make our own the statement of the Anglican congress that "in the work of the church we should welcome people of any race at any service conducted by a priest or layman of any ethnic origin, and bring them into the full fellowship of the congregation and its organizations."

APPENDIX E

[Extract from The Methodist Church and Race, adopted by the general conference, 1956]

The teaching of our Lord is that all men are brothers. The Master permits no discrimination because of race, color, or national origin.

The position of the Methodist Church, long held and frequently declared, is an amplification of our Lord's teaching. "To discriminate against a person solely upon the basis of his race is both unfair and unchristian. Every child of God is entitled to that place in society which he has won by his industry and his character. To deny that position of honor because of the accident of his birth is neither honest democracy nor good religion" (the Episcopal address, 1952 and 1956).

There must be no place in the Methodist Church for racial distrimination or enforced segregation. * * *

APPENDIX F

[Extract from Social Pronouncements of the 166th General Assembly of the Presbyterian Church in the U. S. A., May 1954]

RACIAL AND CULTURAL RELATIONS

We receive with humility and thanksgiving the recent decision of our Supreme Court, ruling that segregation in the public schools is unconstitutional—with humility, because action by our highest court was necessary to make effective that for which our church has stood in principle; with thanksgiving because the decision has been rendered with wisdom and unanimity.

I. Implementing the Supreme Court decision

We urge all Christians to assist in preparing their communities psychologically and spiritually for carrying out the full implications of the Supreme Court's decision.

We call upon the members of our churches to cooperate with civil organizations, neighborhood clubs, and community councils as effective means for the accomplishment of racial integration in the public-school system, and to remember that integration must be indivisible in character, insisting that teachers as well as pupils be accorded full opportunity within the school system on the basis of interest, ability, and merit, without reference to race.

II. Responsibilities of the church

We commend our church for its continued efforts to make the law of Christ relative to all areas of the church's life We particularly commend the increasing number of local churches which have become racially and/or culturally integrated and have learned the joy of full Christian fellowship. * * *

APPENDIX G

[Extract from A Statement on Human Relations by the executive board of the United Lutheran Church in America, and the statement of that church's convention, October 1956, on desegregation]

HUMAN RIGHTS AND RESPONSIBILITIES

Consistent Christian living requires that men shall seek to accord to each other the observance of the following rights and their matching responsibilities:

* * * * * * *

6. To share the privileges and obligations of community life, having equal access to all public services, including those related to health, education, recreation, social welfare, and transportation, and receiving equal consideration from persons and institutions serving the public.

7. To exercise one's citizenship in elections and all the other processes of government, having freedom for inquiry, discussion, and peaceful assembly, and receiving police protection and equal consideration and justice in the courts.

STATEMENT ON DESEGREGATION

The ULCA, recognizing its deep involvement in the moral crisis confronting the United States of America in the current controversy over desegregation occasioned by the Supreme Court decision of May 17, 1954, affirms the Statement on Human Relations adopted by the executive board of the ULCA and the board of social missions (April 1951), and calls upon all its congregations and people, exercising Christian patience and understanding, to work for the fullest realization of the objectives of that statement.

We believe that Christians have special responsibilities to keep open the channels of communication and understanding among the different groups in this controversy. Our congregations are encouraged to contribute to the solution of the problem by demonstrating in their own corporate lives the possibility of integration.

We furthermore state that due heed ought to be given the following principles by all, and especially by those holding civil office, since they hold their power under God and are responsible to Him for its exercise.

(1) The public-school system so necessary to the maintenance of a democratic, free, and just way of life, must be upheld and strengthened.

(2) All parties to the present controversy are in duty bound to follow and uphold due process of law, and to maintain public order.

FEBRUARY 14, 1957.

SUBCOMMITTEE No. 5.
House Committee on the Judiciary,
Washington, D. C.

SIRS: In 1946 I served on the Huntington City Council, and in 1948 was elected a delegate to the 1948 Democratic National Convention, and since that time I have continually been interested in government and especially the idea of States rights. Last November, I was a writein candidate for Governor of West Virginia, for the purpose of giving strength to the movement in behalf of T. Coleman Andrews for President in West Virginia.

It is my sincere conviction that upwards of 85 percent of the citizens (voters) of West Virginia believe firmly in the principles of States rights, and that the fact that West Virginia has its first Republican governor in more than 20 years can be attributed to the fact that machine Democrats have ignored the wishes of the majority of the voters—that they, the officeholders, join ranks with those citizens of our sister Southern States in combating the evils of Federal encroachment in the affairs of the States.

So far this year, our Republican State administration has turned a deaf ear to pleas that they uphold the West Virginia constitution, which provides for separation of the races in public schools. This, in my opinion, will mean the end of Republican rule in West Virginia at the end of the next 4 years, and the wholesale backing of the third party movement in West Virginia.

Believing that the Supreme Court decision of 1954 was illegal attempt at legislation, and believing that the whole educational question is one for the States themselves to handle, I also am firm in my conviction that equally as important is the right of local self-government within the States. Accordingly, I believe that the States should handle and cope with this situation on a local option basis.

West Virginia, with very few members of the Negro race, faces no real problems. However, perhaps 1 or 2 of our 55 counties might face a problem and desire to keep segregated schools, and this they should have the privilege of doing, a majority of the voters so desiring.

I also wish to emphasize the illegality of the 1896 Plessy-Ferguson decision by the Supreme Court, regarding the separate but equal doctrine, and express the thought that had the South fought against this decision, our present problems likely would have never occurred. But, because of earlier failure, there is no reason to deny the South the right to oppose what they believe to be illegal. It was simply a question that the earlier of the two decisions was pleasing to them.

Also, I wish to mention the fact that in numerous Supreme Court decisions the Court when confronted with a political question, failed to render a decision, but left the matter to the legislative branch of Government, and I firmly believe that is what the Supreme Court should have done with their 1954 decision.

And, while they failed to do this, to my way of looking, is all the more reason why Congress should step in and overrule the Court, and express the true will of the people of the country.

Thanking you for the opportunity of presenting this testimony.

Respectfully submitted.

R. J. WILKINSON, Jr.

HUNTINGTON, W VA.

RESOLUTIONS, 31ST WOMEN'S PATRIOTIC CONFERENCE ON NATIONAL DEFENSE, INC., JANUARY 31, FEBRUARY 1 AND 2, 1957, WASHINGTON, D. C.

OPPOSITION TO PROPOSED LEGISLATION ON CIVIL RIGHTS

Whereas the Bill of Rights of the Constitution of the United States guarantees basic liberties to all citizens; and

Whereas so-called civil-rights legislation would create a new Assistant Attorney General and another bureau in the Department of Justice to enforce so-called civil rights in the States at the expense of the sovereign people: Therefore be it

Resolved, That the 31st Women's Patriotic Conference on National Defense, Inc., opposes police-state-type Federal legislation to enforce so-called civil-rights in the several States.

STATEMENT OF BENJAMIN WYLE, GENERAL COUNSEL; MAX ZIMMY, ASSISTANT GENERAL COUNSEL; AND JOHN W. EDELMAN, WASHINGTON REPRESENTATIVE FOR TEXTILE WORKERS UNION OF AMERICA, AFL–CIO

"ALL RIGHTS DENIED"

Citations of some of the killings, beatings, kidnapings, and other outrages and attacks suffered by representatives and members of the Textile Workers Union of America, AFL–CIO, in recent months and years; plus typical and frequent violations of civil liberties such as refusal of places to meet and denials of free speech, which are almost a commonplace fact of life in the daily operations of a legitimate labor union seeking to assist workers to form unions of their own choosing.

INTRODUCTORY

The Textile Workers Union of America, AFL–CIO, explicitly and earnestly associates itself with the earlier statement in support of long overdue civil-rights legislation made to this committee on behalf of the American Federation of Labor and Congress of Industrial Organizations by Andrew J. Biemiller.

Our purpose in offering the following carefully considered supplementary testimony is not to reiterate what has already been adequately argued; this presentation deals with one phase of the civil-rights testimony which has not been dealt with by other witnesses and which is vitally important to the trade-union movement of this country, as well as to the general public. The particular problem with which the testimony of the Textile Workers Union of America is concerned concerns the consistent and flagrant denial of elementary civil rights to trade-union members and especially to union organizers and officers in many sections of this country and particularly in the South.

Almost completely ignored by the press and public is the fact that, as of the year 1957, perfectly orderly and peaceful union spokesmen are regularly beaten up or subjected to other forms of violence, forcibly ejected or made the victims of planned and instigated mob terror or violence in many, if not most, textile communities in the United States. In addition, union members are frequently denied places in which to meet, to rent offices, and are effectively refused the right of free speech by dozens of different tactics of intimidation, economic discrimination, or plain brute force.

These violations of constitutional rights took place for years before the United States Supreme Court decision on the integration of schools and have continued unabated in recent months and weeks. We make this point to remove any suspicion that the instances we describe have any direct connection with controversies regarding race relations; nor can the inhibitions on legitimate trade union operations be brushed aside on the ground that this is a passing phase related to current incidents concerned with struggles over enforced segregation of Negroes.

To forestall the frequently advanced excuse that these outrages against labor organizations are of no concern to legislative bodies, we must stress the fact that in practically every instance which we shall cite in this brief, either positive action or deliberate and purposeful inaction on the part of local public or police officials is involved. Moreover, on the basis of long experience, the Textile Workers Union of America can confidently assert that wherever and whenever the Federal Bureau of Investigation or other enforcement agencies of similar stature have concerned themselves, even in the most discreet or a positively apologetic manner, in one of these situations the deterrent effect is immediate and palpable.

Nor is this testimony merely a complaint or a recitation of wrongdoing. We offer specific and carefully thought out proposals for amendments to the present statutes which we believe would have the effect of substantially limiting or lessening the illegal and immoral suppressions to those seeking merely to effectuate their right to form unions of their own choosing.

NECESSARY BACKGROUND INFORMATION

The Textile Workers Union of Amreica, AFL–CIO, is a labor organization representing about 285,000 employees in all branches of the textile industry. About 1 million workers are employed in this industry. Roughly one-third of the industry is organized

The major subdivision of the textile industry is cotton spinning and weaving. More than 80 percent of this subdivision is located in the South. Roughly 15 percent of southern cotton textiles are members of this or other unions. The organization of the southern textile worker has been and continues to be the primary organizational target of the Texile Workers Union of America.

In 1950, a Subcommittee on Labor-Management Relations of the Senate Committee on Labor and Public Welfare of the 81st Congress, pursuant to Senate Resolution No 140, conducted an investigation of labor-management relations in the southern textile industry. It issued its report in 1951. A majority of the committee concluded that there existed in the textile industry, primarily in the South, a widespread conspiracy to prevent union organization and to destroy those unions which now exist. The report of the majority found that:

"The extent and effectiveness of the opposition in the southern textile industry is almost unbelievable

"In stopping a union organizing campaign, the employer will use some or all of the following methods: Surveillance of organizers and union adherents; propaganda through rumors, letters, news stories, advertisements, speeches to the employees; denial of free speech and assembly to the union; organizing of the whole community for antiunion activity; labor espionage; discharges of union sympathizers; violence and gunplay; injunctions; the closing or moving of the

mill; endless litigation before the NLRB and the courts, etc. After all these fail, the employer will try to stall in slow succession, first the election, then the certification of the union, and finally the negotiations of a contract. Few organizing campaigns survive this type of onslaught."

The evidence presented to the 1950 Senate subcommittee is in no way outdated. In the 6 years since that investigation was made, a series of similar outrages have occurred—many of which have been called to the attention of the United States Department of Justice or other Government agencies. The fact that we continue to be subject to violence and are denied free speech and assembly in our organizing efforts, without effective recourse to a Federal, State, or local agency, we believe requires and warrants the attention of this committee.

The cases, or situations, which we enumerate in summary form herewith are all typical and could be duplicated if the time and the patience of the committee permitted. What we describe are not isolated outrages; these are the day-to-day experiences of the men and women who represent the Textile Workers Union of America and of the thousands of simple millworkers whose economic and social problems cause them to constantly strive to build a union which can ultimately afford some protection against injustice and deprivation.

I. Use of violence to suppress civil liberties

In March and April of 1956, organizers and officers of this union were brutally assaulted and beaten by a group of thugs led by two ex-convicts outside the Limestone Mills of M. Lowenstein & Sons., Inc., in Gaffney, S. C., when they attempted to distribute union literature. The assaults were inspired and supported by company officials who used company-owned equipment in executing the assaults. A recent intermediate report of a National Labor Relations Board trial examiner found the company responsible for certain of these assaults. (*Limestone Mfg. Co.*, Case No. 11–CA–1000, IR–983). This case is still pending, no final disposition yet having been made.

We use the phrase "certain of these assaults" because the National Labor Relations Board on technical grounds refused to entertain an unfair labor practice charge in respect to what were the most brutal of two sets of attacks on union spokesmen. In the case which was the subject of an official National Labor Relations Board investigation, a top company official was present when union members were knocked down by having the fire hose turned on them and directed this whole attack. Further, the rowdies who participated in this violence were handed baseball bats out of the plant official's automobile.

In a previous case in which union men were slugged by company hired thugs no top plant official was physically present; hence the fact that the National Labor Relations Board rejected an unfair labor practice charge.

The local sheriff not only refused to arrest the assailants in this situation but cooperated with them by informing them when the union organizers would arrive. Textile Workers Union of America had informed the sheriff when the leaflet distribution would take place. After the attack the sheriff refused to act against the assailants upon the complaint of the unionists and, instead, threatened to arrest the victims for inciting a riot unless they left town.

Both this union and AFL–CIO President George Meany complained to the Department of Justice about the behavior of the sheriff as well as about the actual assaults. The Justice Department declined to intervene in any way on the grounds that the assailants were not public officials and that the law does not apply to the actions of private persons and that the sheriff was guilty not of action but inaction and is, therefore, technically in the clear as the law now stands.

Avondale Mills, Sylacauga, Ala.—In the summer of 1955, 3 of our organizers who were conducting an organizing campaign at Avondale Mills in Sylacauga, Ala., were attacked by a mob of 20 employees just as they were preparing to distribute leaflets outside the plant gates. The attack was incited, if not squarely directed, by Donald Comer, chairman of the board of directors of Avondale Mills. At a captive audience meeting of the workers, Mr. Comer characterized the organizers as "black cats" and told the story of how he had once crawled from a sickbed to strangle a black cat he had seen stalking a mockingbird. "There are a lot of black cats outside the mill and something should be done to get rid of them," Comer shouted.

TWUA organizers who were the victims of these beatings have testified to the fact that Mr. Craig Smith, the top executive officer of this corporation and chairman of the American Association of Cotton Manufacturers, stood in the mill

yard giving orders to the men who a few minutes later were beaten up and "stomped" as they were attempting to give out handbills on a public thoroughfare

We complained to the Department of Justice and asked that it intervene and investigate The Department of Justice declined.

Chief of police directs campaign against union—Perhaps the most sensational case in which a textile union organizer was maltreated occurred during our attempt to organize the Russell Manufacturing Co, in Alexander City, Ala. In that instance the local police force openly and brazenly acted as the agent of the employer

In January 1945, one of our organizers came to Alexander City to visit his father who was a long-time resident of the city and favorably regarded in the community The organizer himself had been born and raised in that part of the State Although he came to town to see his family, the union representative was quickly made aware that there was a great deal of discontent among the cotton-mill workers there After consulting his superior in Birmingham, the organizer came back to Alexander City, registered openly at the hotel and invited some of his friends who were working in the Russell Mills to discuss the formation of a union

Before he could actually get started on his unionizing campaign, the TWUA representative was called to city hall by chief of police, G. Mack Horton, and told to get out of town or he would be mobbed. The chief further intimated that he would use his influence to have the organizer drafted into the Army. This organizer was, at the time, beyond the age limit for military service and was in fact on leave from the merchant marine after serving in combat areas. Our representative told the chief he would stay and continue his lawful efforts to organize the workers

Chief of Police Horton and two assistants, Alfonso Alford and Floyd Mann, thereupon undertook a deliberate campaign to drive our organizer out of town.

For months Alford and Mann followed the representative literally night and day When the union man would drive out to the mill village, a police car would follow. Alford sat in the hotel restaurant whenever the organizer ate a meal; it was not possible to talk to anyone in town without being observed by either Alford or Mann Despite this open intimidation, some employees of the Russell Manufacturing Co, signed union application forms and urged others to do so. Apparently this made some drastic measure such as an assault necessary.

The beating of the union organizer took place in the center of town. It was carefully staged. At the National Labor Relations Board hearing in the case (10–C–1803) one of the Russell employees testified supervisors in the mill boasted that the beating had been planned in the company office and would take place later that day The beatings were administered by two workers who were given time off from their jobs in the plant. Without preliminaries or provocation, these two workers set upon the organizer, slugged him with their fists until his face was bleeding profusely, then knocked his head against the pavement and kicked him in the ribs as he lay on the ground. A uniformed policeman stood within 10 feet of where the assault occurred and abused the organizer as the workers beat him. While the TWUA organizer lay bleeding in the gutter, Alford shouted to the crowd which stood around watching the beating, that he would "make cash bond for anyone who beat up a union organizer."

The TWUA man staggered to his feet as Chief of Police Horton came upon the scene Horton took the organizer and the assailants to city hall. He ordered the two workers back to the mill. In the presence of Horton, the workers threatened they would beat the organizer again if he did not leave town. Although not charged with any offense, the organizer was arrested and jailed. He was subsequently released on bail The organizer secured an attorney, who attempted to have warrants issued against the assailants. The attorney was informed that one of the assailants had already been tried and fined $25. The other had been "turned loose."

Kidnaping at Tallapoosa, Ga—The crude resort to violence in this mill town was fully developed at the hearing before the Senate subcommittee on August 21, 1950, when union witnesses reenacted the kidnaping of a woman organizer by armed antiunion employees at midnight, and the assaults upon union members who were distributing leaflets at the gates of the American Thread Co., in Tallapoosa, Ga

The kidnaping victim was a cotton-mill worker, on strike at the time at another plant in the same State, who went to Tallapoosa as a volunteer organizer. Mrs Edna Martin, a widow with 6 children, 1 of whom at the time of her

interest in the organization. The method was described by the trial examiner in the intermediate report.

"From July 10, 1946, to August 10, 1946, or a few days thereafter, policemen of the town of Porterdale were assigned to and maintained a 24-hour-a-day surveillance over the activities of each and every organizer for the union while he was inside the city limits of Porterdale as well as surveillance over the home of employee, Walter Reynolds, which the organizers made their local headquarters in Porterdale and in which much of the union activity took place. By this 24-hour watch over the Reynolds' home, the police were able to know when the organizers were in town and to follow or trail them throughout the town while they were calling upon employees of the respondent. As soon as the organizers would leave Reynolds' home, 1 or 2 policemen would 'tail' them until they left Porterdale for the day. If the organizers left the house on foot, left by vehicle, the police followed by police car. If two organizers started out together and then went separate ways, there would be a policeman following each of them. Everywhere the organizers went, the police were sure to follow. For at least the above period of time, there was a policeman within 60 to 75 feet of any organizer who was in Porterdale. The police, except for one new employee who was unable to secure a uniform due to the clothing shortage, were always in uniform. They utilized the regular police car or the chief's automobile, both well known as police cars to the approximately 3,200 inhabitants of Porterdale. The police made no effort to conceal their activities, but, in fact, made their surveillance as open and public as possible. The police remained at times on public thoroughfares. They said nothing. As described by one witness, the police were always 'sitting and staring.' A number of the employees were afraid to talk to the organizers upon discovering their police escorts. One employee left the union organizer to whom he was talking for the purpose of telling the police escort that he (the employee) had not joined the union. The organizer offered to confirm this statement to the policeman if he should doubt the employee's word."

Surveillance in a company-owned mill village.—In the very full brief filed by the Textile Workers Union of America before the Labor Committees of the House and Senate in 1953 interesting quotations appear from an N. L. R. B. report and decision dated 1950 describing a situation almost as outrageous as the Bibb case referred to above. This Rhodiss, N. C. (Pacific Mills), situation was more recent than the Bibb (Georgia) case, but is essentially similar. In Rhodiss where the company owned the employees' homes, the foremen and a deputy police officer watched who went in and out of any workers' houses so as to halt meetings at which organizational matters might be discussed. Also in this Rhodiss, N. C., situation, an eviction of an active prounion worker took place. The National Labor Relations Board ordered the man restored to his home; the company (incidentally a concern operating out of Boston, Mass.) refused to comply. The case went to the courts, but was removed from the docket because of a technicality. These two cases, Bibb and Pacific Mills (Rhodiss, N. C.) are examples of the type of present-day feudalism that still persists in wide areas of the textile industry in the South and elsewhere.

A classic case of espionage.—Both in the brief filed by Textile Workers Union of America in 1953 and an earlier and even more elaborate presentation filed in 1948 there appears considerable data on the case of Frank Ix & Sons, Inc. of nearby Charlottesville, Va.

We respectfully urge and plead with Members of Congress to read that story which details a type of crude espionage which is so amazing as to be almost ludicrous We have the sworn testimony of the organizer in that case that on certain evenings when he would attempt to visit the homes of employees, he would be followed by as many as 10 foremen in 10 separate cars. In this case employees were thrown out of work because quite inadvertently the organizer had parked his car in front of their homes while making visits around the community. Actually the union representative had not been aware of the fact that an Ix employee lived in the house in front of which he had left his car. But the company stooges put two and two together and had the unfortunate householder dismissed from his job.

County judge directs violence.—At Prattville, Ala., during a strike at the Gurney Manufacturing Co. in May 1947 a county judge, the county sheriff and the Prattville chief of police with various deputies raided a peaceful picket line, beat the strikers, both men and women, both young and old, with clubs and blackjacks and then hailed these victims into the court, presided over by the judge who directed the arrests. Heavy fines and jail sentences were imposed on

more than a score of strikers. Those present in court at the time swore that they were refused the right of counsel or to even make statements in their own defense. Two men were fined because they attempted to shield, in one case a wife, and in another an elderly father, from police beating.

The union organizer (as it happened, a disabled discharged war veteran with many citations for heroism in action) had been previously ordered to leave town by the chief of police.

The local union president, a mill employee whose home was in Prattville, was also ordered to move away.

At least one of the women strikers who were kicked and slugged by the police when they broke up the picket line was lamed, probably permanently, as a result of her injuries.

A couple of weeks after this amazing affair occurred—which, by the way, did not scare the workers into quitting their strike—a truckload of armed strikebreakers was imported from Mississippi in violation of the Byrnes law which forbids just such practices. The strikers and union attorneys brought this situation to the attention of the local authorities but the complaint was ignored. Indeed, the importees armed with knives and guns were turned loose in the streets of Prattville and told to try to instigate fights with the local strikers. These outrageous violations were carefully documented at the time and presented to the Department of Justice which did listen to the story, but no action was ever taken to curb this lawlessness.

This strike occurred during the first administration of Gov. James E. Folsom. Through the intervention of the Governor, a small squad of State highway patrolmen came into Prattville to make it possible for the Textile Workers Union of America to conduct a couple of union meetings in a peaceable and orderly manner. The Governor, however, did not succeed in curbing or correcting the other violence that occurred.

The case of Clarksville, Va.—TWUA has a considerable back file on a Clarksville, Va., matter plus a current file showing continued, if somewhat different, types of law violation.

This situation is just a little different because the mayor himself (plus the town banker and other businessmen whose names were given to the Department of Justice at the time) took the leading role in preventing union meetings from being held plus "escorting" union representatives out of town.

This particular matter was first brought to the attention of the civil rights section by the late Ernest B. Pugh, formerly CIO State director for Virginia. We quote from a letter of Mr. Pugh dated March 30, 1948:

"Mr. ABBOTT ROSEN,
Civil Rights Section,
United States Department of Justice, Washington, D. C.

"DEAR SIR: I have just wired you a day letter. Same is hereby confirmed:

"'We ask you to investigate actions on March 20 of F. A. Burton, mayor of Clarksville, Va., in denying right of assembly to group of workers of Colonial Mills by coercing proprietor Long of Russell Service Station outside city limits to withdraw use of his property for the meeting. Also the action of Clarksville Police Officer Newcomb who aided and abetted in harassing the workers attempting to peacefully assemble by following them 9 miles from the service station to point over the line into the next county and there accosting them. The mayor and police are aiding and cooperating with Colonial Mills against the workers in its employ by denying the rights of workers to free and peaceful assembly. Letter follows.'

"I enclose therewith 2 full-page letters from the company to its workers and from 11 concerns and individuals, including Mayor Burton, to the employees of Colonial Mills, Clarksville finishing division, both of which appeared in the Clarksville Times of March 19, 1948.

"We would not deny the right of free press and free speech as exemplified in these two-page advertisements. But we also submit that our right to free speech and free assembly should not be nullified and suppressed by attempted coercion and intimidation on the part of the law enforcement authorities in Clarksville, Va."

The metropolitan press in Virginia, to its credit, gave the story considerable prominence but this fact in no way caused the Clarksville officials to mitigate their hangh-handed gestapo-like methods.

The Federal Bureau of Investigation sent men to Clarksville. Miss Lucy Mason, a prominent Virginia lady, spent weeks working on the case in the hope of bringing about a change of heart on the part of the local officials.

Clarksville today is as solidly closed to TWUA or any other union as it has ever been.

City detective tells how it is—In our many years of experience, it is apparent that local law enforcement agencies in some sections of the country are unwilling to protect union organizers and their adherents. Cases against the perpetrators of violence and assault upon union organizers are rarely prosecuted. In the few instances where the assailants are brought to trial, they are invariably acquitted. In more than 20 years of organizing the South we are not aware of a single conviction by a southern court for attacking union representatives or union employees.

The refusal by southern communities to act to prevent violence from being used against union adherents results in many cases from the absolute control exercised by textile employers over all phases of community life. The extent and effect of this control was revealed in the Anchor-Rome case heard by the 1950 Senate subcommittee. The Senate inquiry revealed that the treasurer of the company was a member of a grand jury which was considering indictments against strikers. The company, because of its position as a heavy taxpayer, had brought pressure upon a city detective to return a one-thousand-dollar reward it had paid to him pursuant to an advertisement of a reward for arrest and conviction of a person who shot a nonstriking employee. It turned out that the victim was mistaken for a striker by another scab. Detective W. B. Terhune of the police department of the city of Rome, Ga., testified most reluctantly about the pressure exerted upon him by city officials to return the reward.

"I have a wife and baby at home and I have to have a job and I have to get along * * * I could not take the chance of losing my job for $1,000 * * * well, you know how small towns are * * * even when lots of time you are right, you are wrong if they want to get rid of you."

The courteous vigilantes of South Boston, Va.—One of the most quiet-spoken, courteous and dedicated persons ever to work for any organization or company was the late Cree Radcliff, a field representative for TWUA, who in December 1946 was forced out of a hotel, and later made to leave the town altogether, in South Boston, Va. by a crowd of local "vigilantes."

Cree Radcliff died just 2 years ago as a result of a heart attack at the conclusion of another harrowing experience at Elkin, N. C., which is also referred to in this testimony.

In Elkin, N. C., Radcliff had tried to assist in unionizing the Chatham Manufacturing Co., owned by the late Thurmond Chatham who served in the House of Representatives from the fifth District of North Carolina.

In South Boston, Radcliff had gone to meet with employees of the Carter Fabrics Corp. which, at the time, was represented by a gentleman who later became Governor of Virginia and now serves in the United States House of Representatives.

Radcliff, a small and rather frail man, was not physically manhandled; indeed, the "vigilantes" who forced him out of the hotel and rode him out of town treated him with elaborate, if hypocritical, southern courtesy. Radcliff was warned in a perfectly decorous manner that he would be killed if he did not leave South Boston without delay.

Back in 1944 a very similar situation occurred in this same place when the Textile Workers Union of America conducted an organizing campaign at the plant of the Carter Fabrics Corp. At that time the mayor openly engaged in a campaign designed to intimidate workers who were voting in a National Labor Relations Board election. Premises rented by the union were broken into and property belonging to the organization was destroyed. The police made it very plain that they approved of such illegal conduct. Typical of the attitude of the local officials was the move made to prevent union representatives from addressing workers at the mill with the aid of a sound amplification system. Finding themselves without a local ordinance covering the situation the mayor called the town council into emergency secret session one morning to adopt a restriction against the use of loud speakers and in the afternoon of the same day a young woman representing TWUA was arrested at the mill gates for merely attempting to set up sound equipment for a speech.

At that time a committee composed of local citizens, whose names we have, did make threats against the organizers and representatives of the Textile Workers Union of America. Mayor Harrell at the time gave Mr. Boyd Payton, State representative for TWUA, to understand that he wanted the union to quit

the town and broadly hinted that the local police would make no move to halt violence used against union representatives.

Denial of means of communication.—In the spring of 1954, we began to organize the employees of the Chatham Manufacturing Co., Elkin, N. C. Employees who tried to attend the union meeting, which we were compelled to hold in the woods, were stopped by a police roadblock which, by a seeming coincidence, the police had just decided to set up in order to make a road check of drivers' licenses on the road leading to the meeting place. Each of the employees who attended the meeting had his driver's license checked and was made clearly aware that his name was being reported to the company.

The Chatham Manufacturing Co. utilized other tactics besides surveillance to prevent union organization. One of the methods was to prevent the union from securing a building in which to meet.

Shortly after the Chatham campaign began, an effort was made to rent facilities for holding a meeting. The executive director of the Elkin YMCA was contacted and we requested permission to rent space in the Y. He replied that he could not see why we could not have space since the Y facilities were being used by various community and political organizations. He said, however, that he would first have to get the approval of the Y's board of directors. The next day the union was informed that the YMCA could not be used for union meetings. The board of directors of the Elkin Y consists of Chatham management personnel. In the months that followed, union committees of local residents made repeated requests for the use of the Y but all were rejected. These same facilities were made repeatedly available to the employer "captive audience" meetings.

The union next turned to the movie theaters in Elkin for a place to meet but were turned down. The State Theater in Elkin had been standing idle for months. The union offered to rent it. The owner sent word that he could not rent the theater to the union for any purpose. The owner did rent the theater to an antiunion committee operaing in the mill which held repeated antiunion rallies there.

We turned next to the schools. On June 4, 1954, secret arrangements were made with the Austin School to hold a union meeting. The school is 15 miles from Elkin. The union committee waited until the last day before advertising the meeting. Despite the short notice the meeting was packed. Over 500 people attended and a highly successful meeting took place. A suggestion that another meeting be held the following week was enthusiastically approved. The next day the county superintendent ordered that further use of the Austin school be denied.

Requests for the use of other schools were successively denied. The school principal of the Pleasant High School in Elkin candidly stated, "Chatham contributes a sum of money each year to our school-lunch program. Knowing how Chatham feels about the union, I personally cannot make a decision that might take away the children's lunch and milk program."

The union then tried the Surrey County Courthouse at Dobson, N. C. This is 20 miles from Elkin. Here, the clerk of the court stalled until the union gave up in disgust.

While the search for a meeting place was going on, the owner of the motel in which the organizers lived warned that he would force them to move if they used their rooms as an office or meeting place.

Finally, the union was forced to hold its meetings in the woods. It was while the workers were going to this meeting that the police "road check" took place.

The Textile Workers Union of America hereby files with this brief for the information of the Congress a copy of a 41-page booklet entitled "All Rights Denied," which gives the full Elkin story in considerable detail.

Newspapers refuse to accept advertisements.—At the 1954 Senate Labor Committee hearings on the Taft-Hartley Act, we presented many other shocking denials of the channels of communication to union representatives. We shall cite here only a few of such instances.

In Gastonia, N. C., the newspaper refused to publish union advertisement urging southern millowners to raise wages. We did not even appeal for union members. The newspaper in Gastonia is located in the heart of the cotton-mill area.

In Andersonville, S. C., one of the largest textile centers in the South, it is still impossible for us to obtain any advertisement in local newspapers.

In Hogansville, Ga., we were unable to hire a meeting place and an office. As a result, an organizing campaign was completely frustrated. We finally rented a theater in Grantsville, Ga. We scheduled a meeting and mailed letters of invitation to hundreds of people in nearby communities. One day before the scheduled meeting the theater owner advised us that we could not hold the meeting because tremendous pressure had been brought upon him.

In Piedmont, Ala., meeting facilities were denied us in a campaign carried on in the winter. We held our meetings in a tent.

Unable to purchase radio time.—Only after many years of complaint to the Federal Communications Commission have we been able to obtain radio time in some parts of the South. Our scripts, in most instances, must be turned in to the radio station at least a week prior to the broadcast. These scripts are subject to severe and utterly unreasonable censorship.

II. The national labor laws offer no relief

The National Labor Relations Act which was designed to encourage collective bargaining has proved to be almost totally ineffective in protecting the personal security and constitutional rights of unionists. Two or three years after the illegal acts are committed the Labor Board may order the employer not to commit those acts again. Long before those years have elapsed, the organizers have been beaten up and driven out of town and all the pressures of the organized community have been brought to bear against the union campaign. Workers see their infant labor organization strangled without Federal intervention. The Labor Board's findings that the employer violated the law comes after the union has died and withered away. The decision against the employer is a post mortem.

The Darlington (S. C.) case.—The law's in ability to cope with the southern textile situation is illustrated by the following very recent event:

On September 6, 1956, we managed to win our first NLRB election in southern textiles in more than a year of intensive organizing efforts. Involved were the approximately 530 employees of the Darlington Manufacturing Co., Darlington, S. C., one of the plants in the Deering, Milliken & Co., Inc., chain. This is a profitable mill which was in the midst of an extensive modernization program at the time of the election. Six days later the board of directors of the company, headed by Roger Milliken, president of Deering, Milliken & Co., Inc., passed a resolution to close and liquidate the plant. During the course of the meeting, Mr. Milliken stated that he would not operate the mill as long as there was a hard core of union sympathizers in the plant. The mill was closed and its machinery and equipment sold on December 12 and 13, 1956.

We filed charges with the NLRB and appealed to the General Counsel of the NLRB to obtain an injunction preventing the company from selling the plant and executing its illegal plans to a point where it would be impossible to fashion effective relief. The General Counsel refused. Thereafter, he issued a complaint against the Darlington Manufacturing Co. The case is now being heard by an NLRB trial examiner. The General Counsel is asking only that the Darlington Manufacturing Co. pay backpay to its workers from the date of discharge to the actual sale of the plant, a matter of a few months, at best. No attempt was made or is being made to compel the employer to undo the disastrous effects of his patently illegal behavior. We asked the General Counsel to proceed against Deering, Milliken & Co., Inc., so that an order might issue compelling Deering, Milliken & Co., Inc, to offer reinstatement or preferential hiring to the Darlington workers at its neighboring plants in South Carolina. This the General Counsel of the NLRB refused to do.

The Darlington case is but a single example of many similar tragedies throughout the South These situations are eloquent proof of the inability of the Taft-Hartley Act to fulfill its declared purpose to encourage collective bargaining.

III. Other instances of suppression of civil liberties

The southern textile employer also uses less violent but equally effective means of suppressing civil liberties. These include passage of unconstitutional local laws prohibiting or severely restricting union activities; surveillance of union activities; and denial to the union of means of communication.

A. *Restrictive local laws.*—Our efforts to organize the limestone mills of M. Lowenstein & Sons, Inc., also included an attempt to organize another Lowenstein mill a short distance away in Lyman, S. C. On June 7, 1956, a number of union organizers parked their cars on a public highway a short distance from the gates of the Lyman, S. C., division of M. Lowenstein & Sons, Inc. They

planned to distribute leaflets to workers coming out of the plant. No sooner had they alighted from their cars than they were met by town policemen who threatened them with arrest and prosecution if they distributed leaflets. The policemen relied on a recently enacted town ordinance which absolutely prohibited the distribution of literature in public places or door-to-door solicitation.

The union appealed to the Department of Justice and pointed out that the wrongdoers were public officials and that this type of ordinance had been declared unconstitutional by the United States Supreme Court. The Justice Department refused to act. It assigned as its reason the fact that this very ordinance had not been declared unconstitutional and that in accordance with the Supreme Court's decision in the case of *Screws* v. *U. S.* (325 U. S. 91), it could not, under existing law, successfully prosecute either the town officials who enacted the ordinance or the policemen who attempted to enforce it. * * *

A further unconstitutional impediment to organizing is municipal ordinances which require union representatives to secure a license from local officials and pay prohibitive fees before they can organize employees. Failure to comply with these ordinances is made a criminal offense.

The unions have attacked the constitutionality of these ordinances in court and, after years of protracted litigation, have succeeded in having some of them declared unconstitutional. While these attacks are in progress, however, union organization is frustrated and constitutional rights denied. We describe below two such recent cases.

An ordinance of the city of Carrollton, Ga., required union organizers to pay $1,000 to obtain a license and $100 for each day that union activity was carried on. An organizer of the International Union of Electrical Workers, AFL–CIO, sought to organize the employees of two local concerns. He did not secure a license before beginning the organizational activity. As a result, a criminal action was brought against him which he sough to have enjoined in a Federal court (*Denton* v. *City of Carrollton*, 132 F. Supp. 302).

The ordinance was attacked as an unconstitutional deprivation of the right of free speech, public assembly and disseminaiton of lawful information as well as on other grounds. The action sought a stay of the criminal proceedings in the State court. The Federal district court found that it had jurisdiction but it declined to exercise its jurisdiction for two reasons: First, because of its interpretation of a Federal statute which prevents a court of the United States from granting an injunction to stay proceedings in a State court; and secondly, because the case was wanting in equity for failure to show great and immediate danger of irreparable injury. The court did not consider a denial of freedom of speech, press, and assembly sufficient ground for equitable relief.

The union appealed to the United States Court of Appeals for the Fifth Circuit. A majority of this court reversed the district court's decision. It examined the "exaction euphemistically called a 'license tax,' but in which in its cumulative effect is exorbitant and punitive." It held that the license tax of $1,000, while large, would not alone, even if its legality were doubtful, present a case for equitable relief, but that when the additional sum of $100 for each day's activity by a "labor union organizer" is added, the payment of such a sum as a condition to testing the validity of the exaction presents a heavy burden and that to decline equitable relief in this instance would be to deny judicial review altogether (*Denton* v. *City of Carrollton*, 235 F. 2d 481). Needless to say, the organizing campaign suffered irreparable harm during the pending of this litigation.

The city of Baxley, Ga., is another southern town which has a union-licensing ordinance. Its ordinance requires union organizers to pay $2,000 for a license and $500 for each member obtained. In 1954, two women organizers employed by the International Ladies Garment Workers Union, AFL–CIO, attempted to organize some of the workers in the city of Baxley. They did not apply for a license and were convicted of violation of the ordinance and sentenced to 30 days or a $300 fine. After the organizers were served with a summons for violating the ordinance, they instituted an action in the State court requesting that the ordinance be declared unconstitutional and that the enforcement of the ordinance be stayed. The lower State court dismissed the action and the dismissal was affirmed by the Georgia Supreme Court. The upper court held that the unconstitutionality of the ordinance could be asserted as a defense to the criminal proceeding. Said the court: "If the ordinance is invalid, by reason of its unconstitutionality or for any other cause, such invalidity would be a complete defense to any prosecution that may be instituted for its violation" (*Staub* v. *Mayor of Baxley*, 211 Ga. 1, 838 S. E. 2d 606, 608).

As directed by the court, the organizers raised the constitutional question before the criminal court Their plea was denied The Federal questions were again raised on appeal from the judgment of conviction. The appeals court dismissed the appeal without considering the merits. It held that the appeal was improper because the appeal bond had been filed with the wrong city official. It so held despite a clear showing that this had been brought about by knowing misrepresentations of the city's officials. On appeal from this determination, the Georgia Court of Appeals held that the bond had been "properly approved and certified" and directed that the case "be returned to the superior court for decision on its merits" (*Staub* v. *Barley*, 91 Ga App. 650, 86 S. E. 2d 712, 715). On retrial on the merits, the Supreme Court of Georgia held the ordinance valid and affirmed the conviction On the second appeal to the Georgia Court of Appeals, that court declined to consider the merits, holding that the constitutional attack had been improperly framed because only specific sections of the ordinance had been attacked and not the ordinance as a whole and because the organizers were required to make an effort to secure a license before they could attack the ordinance (*Staub* v. *City of Barley*, 94 Ga App 18, 935, E. 2d 375). No contention of this character had been advanced by the city at any time. The case has been appealed to the United States Supreme Court (probable jurisdiction noted January 14, 1957, 1 L. ed 2d 319).

The union has been compelled to suspend organizing until the decision of the United States Supreme Court It is highly unlikely that prounion sentiment among the workers will survive the legal contest.

IV. Civil-rights statutes inadequate

The existing Federal civil-rights statutes fail to provide any relief against the civil-rights fiasco engineered by southern textile employers If the exercise and enjoyment of constitutional rights, privileges, and immunities are to be secured, it is necessary that additional legislation embodying both substantive and procedural changes in the existing statutes be enacted. These statutory additions should effect both the civil and criminal rights and remedies presently available. It is not enough to broaden enforcement of existing statutes by equitable intervention as both the Keating and Celler bills appear to do. This is not to say that provisions for injunctive relief are undesirable. On the contrary, such relief provides a singularly proficient means of overcoming the almost insurmountable prejudice of local juries Moreover, it introduces a preventive remedy in an area where locking the door after the horse has escaped is clearly unavailing.

However, additional powers of enforcement must be linked to additional rights to enforce in order for desirable results to be achieved. Both the Keating and Celler bills seek to amend title 42, United States Code, section 1985, which provides, among other things, for a civil suit for damages for conspiracy to interfere with the right to equal protection of the laws. The United States Supreme Court has held this section inapplicable to interference by a person or group of persons with the constitutional rights of speech or assembly (*Hardyman* v *Collins*, 341 U S 651). Neither the Keating nor Celler bills would amend this statute to provide this protection. Instead, these bills provide for injunctive relief to redress the violation of presently inadequate statutory rights. They thus fail to afford relief for the fundamental constitutional rights of speech, press, and assembly. We urge that this omission be remedied by adding to the statute a paragraph to read as follows:

"If any person or persons, whether public officials or private persons, whether acting under color of law, statute, ordinance, regulation, custom or usage, or otherwise, shall intimidate, threaten, coerce, impede, hinder, interfere, invade, obstruct, or defeat the exercise or enjoyment by any person or group of persons of any of the rights, privileges, and immunities secured by the Constitution or laws of the United States or because of having exercised or enjoyed the same, the aggrieved party shall have an action at law, suit in equity, or other proper proceeding for damages or preventive or declaratory or other relief."

Insofar as the remedy of injunction for enforcement of this statute is concerned, we think that both the Keating and Celler bills could be strengthened. The Keating bill makes permissive rather than mandatory an application by the Attorney General for injunctive relief. The preservation and protection of constitutional rights should be mandatory. In this respect, we support the Celler bill, which makes it the duty of the Attorney General to apply for such relief. On the other hand, the Keating bill seeks to overcome the necessity which some courts have imposed, particularly in the South, of exhausting State criminal or civil remedies before applying for Federal relief. The Celler bill has no similar

provision. We support the Keating bill in this regard and suggest that this provision be made even clearer by adding that the exercise of jurisdiction by the Federal courts shall not be affected by the failure to exhaust any administrative or other remedies that may be provided by the public or private law of any State or subdivision thereof, or by Federal law.

The Celler bill seeks, also, to strengthen the criminal side of the civil-rights statutes (18 U. S. C. 241, 242). The Keating bill does not. These statutes are no less deficient than their civil counterparts are in equal need of reinforcement.

However, the Celler bill appears to impose greater penalties for a conspiracy to interfere with civil rights than for an actual interference. There is no apparent reason for this distinction and both should be treated with equal severity. In addition, Congressman Celler's bill fails to hold accountable persons who have knowledge that an interference with civil rights will occur and the power to prevent its occurrence, but who fail to exercise that power. This is a significant loophole, which, as has been demonstrated above, encourages and is directly responsible in many instances for civil-rights infractions. We suggest that section 241 of title 18, United States Code, be amended by adding thereto the following:

"Any person or persons who fail to prevent or to aid in preventing any of the wrongs described in this section which he or they had knowledge were about to occur and power to prevent it, shall be legally responsible to the same extent as the actual perpetrators."

The Celler bill also defines certain classes of civil rights that are protected by criminal penalties. We are in agreement with the listing but would add thereto specific protection for the rights of freedom of speech, press, and assembly. Thus, subsection 3 of the proposed section 242A of title 18, United States Code, should be amended to read as follows:

"The right to be immune from physical violence or the threat thereof applied to exact testimony or to compel confession of crime or alleged offenses or to interfere with or prevent the dissemination of views, ideas, or opinions or the solicitation or recruitment of membership or support in a lawful organization or cause."

We would also add a subsection 7 to read as follows:

"The right to freedom of speech, press, and assembly."

It is not enough to improve the wording of civil-rights statutes. The effective administration and enforcement of such statutes is equally necessary. We, therefore, support the establishment of a separate Civil Rights Division in the Department of Justice, staffed by an increased number of competent and experienced attorneys and headed by an attorney of outstanding ability who has demonstrated not only technical expertise but also an impatrial and nonpartisan devotion to the protection of civil rights. We also support the establishment of a Commission on Civil Rights, adequately staffed and equipped to exercise a continuous and effective surveillance of this problem.

CONCLUSION

The evidence summarized herein illuminates a field where collective bargaining has not been accepted, where unions are struggling to emerge or maintain life, where employers utilize any means, including violence, to stamp out the early fragile unions and to crush those unions which have taken the first steps toward maturity, where whole communities are mobilized against the right to organize and to exercise the constitutional freedoms of speech, press, and assembly, where employers play hide and seek with a hesitant Federal administrative agency charged with the responsibility of clearing away obstructions to the rights of employees to organize and maintain unions.

Southern textiles represent an outrageously clear example of the need for corrective legislation to secure constitutionally guaranteed civil rights.

JACKSON, MISS., *February 10, 1957.*

Congressman EMANUEL CELLER,
Chairman, House Judiciary Subcommittee, Washington, D. C.:

The executive committee of the NAACP conference branches on Mississippi meeting in Jackson today wish to call your attention to a few facts that citizens of Mississippi of Negro extraction have experienced that the representatives of our fair State evidently do not know or have not reported. First, many counties would not allow Negroes to pay poll tax which is a requirement for voting.

No. 2, many counties would not allow Negroes to register if they paid the poll tax—counties such ar Forrest, Clark, Jefferson Davis, and so forth. No. 3, many counties would not allow Negroes to vote if even they have waived the many technicalities and other means to prevent them from registering—Humphrey County is an example. No. 4, economic pressure is applied to Negroes who dare advocate freedom for all people. No. 5, murder of Rev. G. W. Lee, Mr. Lamar Smith, and the attempted murder of Mr. Gus Coats is the result of their effort to get Negroes to vote. No. 6, Negro schoolteachers in Mississippi must swear in effect that they don't want full freedom to hold their job. No. 7, police brutality has increased on the State, county, and city levels since the Supreme Court school desegregation decision which in our opinion is another form of intimidation. No. 8, under the State laws as they are administered it is impossible for Negroes to get justice under the law in civil rights in the right-to-vote cases by reason of the above-stated facts. We urge the passage of all civil-rights bill before Congress as the only means by which Negroes in Mississippi may attain that freedom that all men cherish.

STATE COUNCIL OF BRANCHES OF NAACP,
Jackson, Miss.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, D. C., February 20, 1957.

Hon. EMANUEL CELLER,
Chairman, House Judiciary Committee,
House Office Building, Washington, D. C.

DEAR MR. CELLER: When I appeared before the House Judiciary Subcommittee on February 13, you asked how many school suits have been filed since the United States Supreme Court decision of May 17, 1954. I am advised by Mr. Robert L. Carter, general counsel of the NAACP, that at least 97 cases involving segregated public education have been initiated since the decision; 80 of these were brought on behalf of persons seeking admission to public schools and institutions of higher education on a nonsegregated basis.

Some 5 cases, one each in Florida, North Carolina, and Oklahoma and 2 in Virginia, indirectly questioned the legality of segregated schools by challenging the validity of bonds and the condemnation of land for building such schools.

Twelve cases involved efforts of prosegregationists to enjoin or otherwise prevent nonsegregated education.

In addition to the above cases, there are 8 suits brought against the NAACP in 5 States for the purpose of slowing down the effort to implement the Court's decision. If these 12 are added to the 97, it may be said that there are 109 separate suits which have been filed on the issue of school segregation since May 17, 1954.

It will be appreciated if this letter is included in the record.

Sincerely yours,

CLARENCE MITCHELL,
Director, Washington Bureau.

SOUTH CAROLINA CONFERENCE OF NAACP,
Columbia, S. C., February 10, 1957.

Hon. EMANUEL CELLER,
Representative, United States House of Representatives,
Washington, D. C.

HON. MR. CELLER: The Negroes in South Carolina wish to point out to you in this letter, the great need for civil-rights legislation, for the South in general and South Carolina in particular. Negroes will be pleased to send a committee to appear before your committee, if you desire, and to send them as soon as you may desire, or at the convenience of your committee.

1. The one great need is for protection under the law, when resort is made to the "due process clause." In many instances, when Negroes resort to due process of law, intimidations, violence, and economic reprisals are taken against those filing for relief under the Constitution of the United States. Negroes have not been given the protection of the law, and in many cases bodily harm and destruction of property has been the result. We can give names and places if necessary to substantiate our contentions. Negroes have appealed to the Department of Justice only to be told, "it was not possible to take action under

present laws." Civil-rights legislation could correct this present lack of jurisdiction.

2. There is open defiance of the United States Supreme Court in South Carolina, and the South. Officials have made statements, the law enforcement agencies will not be used to protect the interest of those who resort to due process action, thus those resorting to same, are at the mercy of those who would deny Negroes the right to petition, and seek relief from discriminatory laws. Violence in Alabama, Georgia, Florida, South Carolina will give proof to the contents of this letter.

3. Negroes are denied the right to register and vote freely in some States and places, thus they have no choice in our so-called free elections in America. Civil-rights legislation can correct this existing evil.

4. The last ditch stand is being taken by State legislatures, State and Federal officials, to keep Negroes in a position of second-class citizenship, which place the Negro will no longer accept as his status. The Negro is only seeking real, true, and unadulterated equality in this our great Government, that he may move about unhampered, unsegregated, as other Americans enjoy, even Hungarians, who are coming to our country, fleeing from what Negroes suffer in certain sections of this country.

Thanking you for your attention to this letter, and that the contents be read and made a part of the proceedings of your committee, I repeat, we are available if needed.

Very truly,

J. M. HINTON, *President.*

BALTIMORE, MD., *February 13, 1957.*

Re so-called civil-rights bills.

The JUDICIARY COMMITTEE,
House of Representatives,
Washington, D. C.

GENTLEMEN: This is to say that I am opposed to the said bills; but, as I have heretofore testified before the Senate committee, I will not ask to be heard by your committee. I will, however, ask that this be included in your hearings report, as I wish to have the reference to said Senate testimony appear therein, namely, page 144 of the hearings before the Senate Judiciary Committee on May 25, 1956, which hearings began on May 24, 1956.

Thanking you for this courtesy, I am,

Yours sincerely,

G. W. WILLIAMS.

DEPARTMENT OF JUSTICE,
CRIMINAL DIVISION,
Washington, February 21, 1957.

HON. EMANUEL CELLER,
Chairman, Subcommittee No. 5 of the Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CELLER: On February 13, Mr. Jack P. F. Gremillion testified before your subcommittee. A part of his testimony related to a voter registration civil rights case arising in Ouachita Parish, La, and to the action of a Federal grand jury convened in Monroe, La., to inquire into that and other civil rights cases. Certain facts which the Department of Justice has in its files suggest that Mr. Gremillion's testimony might have left a misleading impression in a number of respects. Accordingly, we feel obliged to provide you with information which we have which is inconsistent with the impression left by Mr. Gremillion's testimony. These facts have not previously been provided by this Department to Mr. Gremillion. We are, however, sending him a copy of this letter.

We refer herein to Mr. Gremillion's testimony by subject matter and transcript page number.

Interpretation of Constitution by registrant (p. 662)

"Mr. KEATING: Do you have an educational requirement of some nature in Louisiana in order to vote?

"Mr. GREMILLION. The requirement with reference to education provides they shall be able to read and write and interpret one part of the Constitution, of their choice.

"Mr. KEATING. One part of the United States Constitution?
"Mr. GREMILLION. Yes.
"Mr. KEATING. And they can choose it?
"Mr. GREMMILLION. Oh, yes. In other words, the registrar of voters cannot say, 'I want you to explain something' that is impossible to explain. They have the right of choice insofar as concerns the section or phrase of the Constitution they wish to interpret. They have their own choice on that, and nothing is foreplanned or forewarned."

Comment.—In none of the 10 parishes in Louisiana which have been the subject of investigations by the Department is there any evidence that the registrar permitted the applicant for registration to choose which clause of the Constitution he wished to interpret. Specifically, in the case arising from Ouachita Parish, the investigation by the FBI disclosed that the registrar of voters in examining applicants for registration used a card on which was written an excerpt form the Constitution, which card was given to the registrar by the Citizens Council of Ouachita Parish. In one instance Mrs. Mae Lucky, registrar of voters of Ouachita Parish, asked an applicant for registration what our form of government is. The applicant replied, "A democratic form of government."

The registrar said, "That's wrong—try again.". The applicant said, "We have a republican form of government." The registrar then said that that answer, too, was wrong and that the applicant would have to return after the next election to reregister.

Reply affidavit on behalf of challenged voters (p. 667)

"Mr. GREMILLION. * * * When such a registrant is challenged, the registrar of voters is required, under the law, to forward a notice of the challenge, a complete copy of the same, together with a form which the challenged registrant has to execute by three bona fide voters registered in the same parish to the effect that the challenged registrant is a bona fide resident of that parish. This form is sent to the challenged registrant at the time that the notice of challenge is sent.

"If the challenged registrant does not appear within 10 days, the registrar shall remove his name from the rolls. If, however, the challenged registrant appears with three bona fide registered voters to assert the authenticity of his residence in the parish before his registrar of the voters, or deputy registrar, the challenge shall fail and the voter's name shall remain on the rolls. See Louisiana Revised State (sic) of 1950, title 18, sections 132, 133, and 134."

Comment.—In none of the 10 parishes which were the subject of FBI investigations did the registrar make it a practice to send a form of reply affidavit to the challenged registrant. On the contrary, investigations in Bienville, Caldwell, De Soto, Jackson, La Salle, and Ouachita Parishes disclosed that the registrar in those parishes did everything to discourage the filing of reply affidavits in the statutory form and generally refused to accept them when offered.

In Ouachita Parish the registrar refused to accept as witnesses on behalf of a challenged voter bona fide registered voters of the parish who were not from the same precinct as the challenged voter. She also refused to accept as witnesses bona fide registered voters who had themselves been challenged. She also refused to accept as witnesses registered voters who had already witnessed to the qualifications of another challenged voter.

In Caldwell Parish the registrar refused to accept witnesses on behalf of a challenged voter unless they were accompanied by a law-enforcement officer and a member of the citizens council to identify them. He even refused to accept white persons as witnesses for Negro voters on the grounds that the witnesses were of a different race from the race of the challenged voters.

In Bienville Parish, where 560 of the 595 registered Negro voters were challenged, the registrar consistently refused to accept affidavits on behalf of registered voters which were in the statutory form and, as a result, the names of every one of the challenged Negro voters were stricken from the voting rolls.

In Jackson Parish, where 953 of the 1,122 Negro voters were challenged, the registrar also refused to accept for filing affidavits on behalf of challenged voters, which affidavits were in statutory form. As a result, all of the challenged Negro voters, with the exception of two who were physically disabled and therefore unable to fill out voter application cards, were stricken from the voting rolls.

In a number of parishes when challenged Negro registrants came to the registrar's office in response to the challenging citation, they were told by the regis-

trar that they would have to see a private attorney in order to get the matter straightened out.

Ouachita incident was "exceptional" (pp. 670–671, 702–703)

"The CHAIRMAN. Mr. Attorney General, I am reading from page 145 of the transcript of these hearings, where there was testimony given as follows:

"'In Louisiana the White Citizens Councils have conducted a campaign to purge as many colored voters from the books as possible. In Monroe, La., representatives of the councils have actually invaded the office of the registrar of voting for the purpose of purging colored voters. The Assistant Attorney General in charge of the Criminal Division of the Department of Justice testified in October 1956 that over 3,000 voters had been illegally removed from the rolls of Ouachita Parish, in which Monroe is located.'

"Would you care to comment on that, sir?

"Mr. GREMILLION. Yes.

"I actually do not know anything officially, or nonofficially, about the activities of the citizens council in my State. I am not a member, and I actually do not know. But I do know that up at Monroe they did have some difficulty with respect to voting. But that is definitely not a general rule throughout the State, and I think that is more or less an exception.

* * * * * * *

"Please do not attach too much significance to this Monroe affair in Ouachita Parish about which you already received testimony. An occurrence like that is typical in any State where political battles are involved. I personally know that that was a fight between two candidates in the mayor's race, and one candidate had the Negro votes and the other used this means of getting them off until that election was held. I regret that that had to happen. But do not judge the State of Louisiana by it. It could happen in any other State in the Union where you have politics. See what I mean?

"The CHAIRMAN. Yes, sir.

"Mr. GREMILLION. So do not pay any attention to that Monroe affair. That is strictly politics, and that is why the people are back there today."

Comment.—With respect only to cases which have been investigated by the FBI, the following numbers of Negro voters were challenged in each of the following parishes:

Bienville	560	La Salle	225
Caldwell	330	Lincoln	345
De Soto	383	Ouachita	3,240
Grant	758	Rapides	1,058
Jackson	953	Union	600

Grand jury inquiry (p. 677)

"Mr. GREMILLION. Mr. Dalton, one of my assistants here, advises me on something that we were talking about in the Ouachita matter, the Monroe matter, and I want to remind the committee of this: That there were two grand juries that investigated these alleged discrepancies or purging of the rolls.

"The first returned an indictment, then the second one was convened, with Mr. St. John Barrett—I believe his name was—assisting, an assistant sent down from Washington. So that grand jury also failed to send down any indictments.

"So let me remind you this matter was investigated by two Federal grand juries."

Comment.—There has been only one Federal grand jury empaneled in Louisiana which has inquired into civil-rights violations. This was empaneled on December 4, 1956, and has not yet been discharged. It was in session with respect to civil-rights matters on December 4, 5, 6, and 7, January 29, 30, and 31, and on February 1, 6, and 12. Witnesses were subpenaed and other evidence presented to the grand jury in connection with the cases arising in Caldwell, De Soto, and Grant Parishes. No indictments were returned in these cases. On February 12, 1957, an attorney from this Department outlined to the grand jury the evidence, which the Department had relating to cases arising in Bienville, Jackson, and Ouachita Parishes, which evidence the Department believed indicated the commission of offenses against the laws of the United States and which merited presentation to a grand jury. After deliberating in private the grand jury announced through its foreman that it had determined that there was no possibility of indictments being returned in the Bienville, Jackson, and Ouachita Parish cases even though the evidence was presented to

them and a full inquiry conducted. The grand jury went on record as not desiring to hear any testimony in connection with these latter cases.

Reregistration of "purged" voters, Monroe, Ouachita Parish (p. 672)

"Mr. KEATING. Have those names been put back on the rolls?

"Mr. GREMILLION. About 99 percent of them are back on the rolls, Mr. Keating. That was under the provisions of the law which I read to you from page 2 of my statement."

Comment.—Prior to the filing of the challenges in Ouachita Parish there were approximately 4,000 registered Negro voters in the parish. On October 6, 1956, after the "purge" was over and when the registration books closed for the November 6 general election there were 694 registered Negro voters. Thus, there were in excess of 3,000 Negro voters deprived of the right to vote in the general election of November 6.

Sincerely,

WARREN OLNEY III,
Assistant Attorney General.

The CHAIRMAN. We will adjourn until tomorrow morning at 10 o'clock.

(Thereupon at 3:30 p. m., a recess was taken until Tuesday, February 26, 1957, at 10 a. m.)

CIVIL RIGHTS

TUESDAY, FEBRUARY 26, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to call, at 10 a. m., in room 346, Old House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler (presiding), Rogers, Keating, McCulloch, Holtzman, and Rodino.

Also present: William R. Foley, general counsel.

The CHAIRMAN. The subcommittee will come to order, please. Our first witness this morning will be the Honorable Strom Thurmond, Senator from South Carolina, who will be introduced by our distinguished colleague, the Honorable Robert Hemphill, Congressman from the State of South Carolina.

Mr. HEMPHILL. Mr. Chairman, in behalf of my distinguished colleague, Mr. Ashmore, whom I expect momentarily, I would like to introduce the distinguished junior Senator from South Carolina, Senator Thurmond, who is a former distinguished superintendent of education of his home county in South Carolina; a former distinguished member of the Senate of South Carolina; a former distinguished circuit judge of the State of South Carolina; a combat soldier of distinction and bravery; a former distinguished Governor of South Carolina; a brigadier general of the United States Army; a former president of the Reserve Officers' Association of the United States; now a distinguished member of the United States Senate from the sovereign State of South Carolina.

The CHAIRMAN. Senator, you may proceed. We are very happy to have you here today.

STATEMENT BY HON. STROM THURMOND, SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator THURMOND. Mr. Chairman, I wish to thank the chairman and the committee for arranging for me to appear here at this time.

Before I begin, I would like to take this opportunity to welcome to Washington three distinguished gentlemen who will speak here this afternoon. I am not saying that I shall be here at that time, but I am pleased to see them here. They are the Honorable Robert McNair, chairman of the Judiciary Committee of the House of Representatives of the Legislature of South Carolina; the Honorable James A. Spruill, Jr., a member of the Ways and Means Committee and a distinguished lawyer from South Carolina; and the Honorable

Thomas H. Pope, chairman of the executive committee of the South Carolina Bar Association, and a former speaker of the House of Representatives of the State of South Carolina.

We are delighted to have all of them in Washington, and are pleased that they are appearing here on this occasion in opposition to the so-called civil-rights bills.

Mr. Chairman and gentlemen of the committee: I am here today to oppose the so-called civil-rights bills.

Tyranny by any other name is just as bad.

In other countries tyranny has taken the form of fascism, communism, and absolute monarchy. I do not want to see it foisted on the American people under the alias of "civil rights."

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

The actual power of the Federal Government should not be confused with power longed for by those who would destroy the States as sovereign governments.

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

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

On this subject, there are two recent cases. One arose in Pennsylvania and one in New York. The Pennsylvania case is Pennsylvania versus Steve Nelson, decided April 2, 1956, dealing with the right of the State to take action against a Communist. The Supreme Court of the United States ruled that, because there was a Federal sedition law, the State of Pennsylvania had no authority in that field. The laws of 42 States were invalidated by the decision. Even the protest of the Department of Justice that the laws of the States did not interfere with enforcement of the Federal law did not stop the Court.

The author of the Federal law, the Honorable Howard Smith of Virginia, has stated there was no intent embodied in the Federal act to prohibit the States from legislating against sedition.

The second case to which I refer arose when the city of New York dismissed from employment, a teacher who had refused to disclose whether he was a Communist when questioned by duly constituted authority. Here again the United States Supreme Court ruled against the power and authority of the local government contained in the charter of the city of New York.

Now, gentlemen, let me refer briefly to some attempts at usurpation of the rights of the States by the executive branch of the Federal Government. Administrators in some Federal departments and agencies have issued directives having the effect of laws which have never been enacted by the Congress.

A specific illustration is that of the Civil Aeronautics Administration issuing a directive last year to withhold Federal funds from facil-

ities in the construction of airports where segregation of the races is practiced.

There is absolutely no basis in law for this administrative action, but by use of a directive or an edict the Administrator effected a result just as though a law had been enacted.

Other attempts at Federal interference from the executive branch with the rights of the individual citizen is demonstrated by the Contracts Compliance Commission. This Commission has dictated that contractors working on Federal projects must employ persons of both the white and Negro races, whether the contractors wish to do so or not. The strength of the Commission lies in the power to withhold contracts, or threatening to do so, if a contractor fails to carry out the dictates of the Commission.

I can think of no better illustration of attempted usurpation of the rights of the States by the legislative branch of the Federal Government than what is going on here now. I believe that the Congress, by attempting to enact these so-called civil-rights bills, is invading the rights of the States.

I want to make it clear that I am not appearing here today in defense of my State, or in defense of the Southern States generally, because I do not believe my State or the Southern States need a defense. But this is not a mere concern of the moment with me.

For many years I have been deeply troubled by the problem of what is happening to constitutional government in this country. That is what I am defending today. The illustrations I have cited provide a basis for my concern, and there are many other instances which might also be cited.

Wherever a person lives in this country, whatever political faith he holds, whatever he believes in connection with any matter of interest, he has one firm basis for knowing his rights. Those rights are enumerated in the Constitution of the United States. I believe in that document. I believe that it means exactly what it says, no more and no less.

If American citizens cannot believe in the Constitution and know that it means exactly what it says, no more and no less, then there is no assurance that our representative form of government will continue in this country.

I believe that people all over the country are beginning to realize that steps should be taken to preserve the constitutional guaranties which are being infringed upon in many ways.

I believe we should also take steps to regain for the States some of the powers previously lost in unwarranted assaults on the States by the Federal Government.

The administration of laws relating to civil rights is being carried out much more intelligently at the local levels of government than they could ever possibly be administered by edicts handed down from Washington. State officials and county officials know the people and know the problems of those people. Most officials of the Federal Government in Washington know much less about local problems than do the public officials in the States and in the counties.

If these so-called civil rights bills should be approved, then we must anticipate that the Federal Government, having usurped the authority of local government, will try to send Federal detectives snooping

throughout the land. Federal police could be sent into the home of any citizen charged with violating the civil-rights laws.

If there are constitutional proposals here which any of the States wish to enact, I have no objection to that. Every State has the right to enact any constitutional law which has not been specifically delegated to the Federal Government in the Constitution.

On the other hand, I am firmly opposed to the enactment by Congress of laws in fields where the Congress has no authority, or in fields where there is no necessity for action by the Congress.

From my observations, I have gained the strong feeling that most of the States are performing their police duties well. I believe that the individual States are looking after their own problems in the field of civil rights better than any enactment of this Congress could provide for, and better than any commission appointed by the Chief Executive could look after them.

Before taking up specific provisions of several of the bills pending before the committee, I should like to read for you two of the basic provisions in the Bill of Rights.

The ninth amendment to the Constitution provides:

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

The 10th amendment to the Constitution provides:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Those last two amendments of the Bill of Rights make clear the intent of the Founding Fathers. Their intent was that all rights not specifically listed, and all powers not specifically delegated to the Federal Government, would be held inalienable by the States, and the people.

This basic concept of the Bill of Rights has never been constitutionally amended, no matter what the Federal courts have done, no matter what the executive branch of the Federal Government has done, and no matter what the Congress might have done or attempted to do in the past. The people and the States still retain all rights not specifically delegated to the Federal Government.

Let us also consider these proposals from a practical standpoint.

What could be accomplished by a Federal law embodying provisions which are already on the statute books of the States that cannot be accomplished by the State laws? I fail to see that any benefit could come from the enactment of Federal laws duplicating State statutes which guarantee the rights of citizens. Certainly the enactment of still other laws not approved by the States could result only in greater unrest than has been created by the recent decisions of the Federal courts.

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

And now it looks as if some people are trying to follow both the Supreme Court and the election returns.

Having made these general comments, I would like to comment specifically on some of the pending proposals. First, on the proposal for the establishment of a Commission on Civil Rights.

There is absolutely no reason for the establishment of such a Commission. The Congress and its committees can perform all of the investigative functions which would come within the sphere of constitutional authority.

I do not believe the members of any commission, however established, could represent the views of the people of this country as well as the Members of Congress can. I hope that the members of this committee and the Members of the Congress will not permit themselves to be persuaded that anyone else can look after the problems of the people any better, or as well, as the Congress can.

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

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

Another bill would provide for an additional Assistant Attorney General to head a new Civil Rights Division in the Justice Department. I have searched the testimony given by the Attorney General last year before the committees of the Congress with regard to this proposal, and I have found no valid reason why an additional Assistant Attorney General is needed.

I can understand how an additional Assistant Attorney General might be needed if the Congress were to approve a Civil Rights Division and enact some of the other proposals in the so-called civil rights bills. But they are proposals not dealing with criminal offenses—they deal with efforts of the Justice Department to enter into civil actions against citizens.

If the Justice Department is permitted to go into the various States to stir up and agitate persons to seek injunctions and to enter suits against their neighbors, then the Attorney General might need another assistant. However, the Justice Department should avoid civil litigation, instead of seeking to promote it.

I hope the members of this committee will recognize this proposal as one which could turn neighbor against neighbor, and will treat it as it deserves by voting against it.

Another proposal of the so-called civil-rights bills is closely related to the one I have just discussed. It would provide, and I quote:

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

Now that proposal is one which I would label as even more insidious than any ex post facto law which could possibly be imagined.

An ex post facto law would at least apply to some real act committed by a person which was not in violation of law at the time. The point is, however, in such instance the person would actually have committed the act.

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

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

Many of the pioneers who settled this new continent came because they wanted to escape the tyranny of European despots. They wanted their families to live in a new land where everybody could be guaranteed the right to trial by jury, instead of the decrees of dictators.

Congress, as the directly elected representatives of the people, should be the last to consider depriving the people of jury trials. We should never consider it at all. But, if this proposal to strengthen the civil-rights statutes is approved, that would be its effect.

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

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

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

Still another proposal among the so-called civil-rights bills would "provide a means of further securing and protecting the right to vote." I have had a search made of the laws of all 48 States and the right to vote is protected by law in every State.

In South Carolina, my own State, the constitution of 1895 provides in article III, section 5, that the general assembly shall provide by law for crimes against the election laws, and further, for right of appeal to the State supreme court for any person denied registration.

The South Carolina election statute spells out the right of appeal to the State supreme court. It also requires a special session of the court if no session is scheduled between the time of an appeal and the next election.

Article II, section 15, of South Carolina's constitution provides that no power, civil or military, shall at any time prevent the free exercise of the right of suffrage in the State.

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

In this proposed Federal bill to "protect the right to vote," a person could be prosecuted or an injunction obtained against him based on surmise as to what he might be about to do. The bill says that the Attorney General may institute proceedings against a person who has engaged or "is about to engage in" any act or practice which would deprive any other person of any right or privilege concerned with

voting. This is the same vicious provision I referred to earlier in the so-called provision to strengthen the civil-rights statutes.

One of the most ridiculous proposals among the so-called civil-rights bills is the antilynching bill.

I am as much opposed to murder in any form and wherever it occurs as anybody can be. I am also opposed to the Federal Government attempting to seize police power constitutionally belonging to the States.

At my request the Library of Congress made a search of the records of cases classified as lynchings. For the 10 years of 1946 through 1955 the reports made by Tuskegee Institute listed 15 instances of what was classified as lynchings. For the past 5 years none was listed by Tuskegee, although one source listed three. The Library of Congress reported that it checked with the National Association for the Advancement of Colored People, here in Washington, and an official of that organization declined to state whether the NAACP classified the other three cases as lynchings.

Not all of the slaying classified as lynchings involved Negroes. Some of the persons were white.

The instances classified as lynching during the past 10 years, all so classified being in 6 States of the South, totaled either 15 or 18, according to which figure you want to accept. The population of those 6 States is approximately 16 million people.

Now I want to give you some information about 3 cities which have a total population of about 14 million people, about 2 million less than the 6 States to which I referred.

These cities are Chicago, New York, and Washington.

According to Federal Bureau of Investigation records, the 3 cities had a total of 6,630 murders and nonnegligent manslaughters during the 10-year period of 1946 through 1955. Chicago, with a population of 4,920,816, had 2,815; New York, with a population of 7,891,957, had 3,081; and Washington (the District of Columbia) with a population of 802,178, had 734.

These facts speak for themselves. This committee has before it a bill purporting to prevent lynching when there has been in 10 years a total of 15 lynchings, so classified, in States having a total population of about 16 million. But the 6,630 killings which have taken place in 3 cities of 14 million population have attracted no attention here.

In the District of Columbia alone, during the first half of 1956, the last period for which statistics are available, 32 slayings were recorded. That was more than twice the number of lynchings classified by the Tuskegee Institute during the past 10 years, and Washington has only about one-twentieth the population of the States involved.

This is not to say that I believe any Federal action is called for in connection with murders and mob slayings in Chicago and New York. But it would appear appropriate to start with the city of Washington, which is directly under the jurisdiction of the Congress, if legislation would help to reduce the present homicide rate.

The fact that no effort has been made in this direction makes it crystal clear that some crocodile tears are being shed before this committee.

Twenty of the 48 States already have specific antilynching laws. Seven of these States are in the Deep South. They are Alabama, Georgia, North Carolina, South Carolina, Tennessee, Texas, and Virginia. Two others, Kentucky and West Virginia, are considered border States. The other 11 are California, Illinois, Indiana, Kansas, Minnesota, Nebraska, New Jersey, New Mexico, New York, Ohio, and Pennsylvania.

The statistics on lynchings, to which I referred, failed to include hundreds of mob or gang slayings I have read about in the newspapers in some of the Northern States which have antilynching laws. I think it is most regrettable that antilynch laws have not been invoked in some of those gang slayings.

South Carolina not only has a criminal statute against lynching, it also has a constitutional provision, article 6, section 6, which provides:

> In all cases of lynching, when death ensues, the county where such lynching takes place shall, without regard to the conduct of the officers, be liable in exemplary damages of not less than $2,000 to the legal representatives of the person lynched.

Plaintiffs in years past have brought civil actions under this provision and have collected damages. There has been no death in South Carolina classified as a lynching in 10 years.

Another proposal among these so-called civil-rights bills is one "to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry." This is also referred to under a short title as the Federal Equality of Opportunity in Employment Act.

This old FEPC proposal was patterned after a Russian law written by Stalin about 1920, referred to in Russia as Stalin's "All-Races Law." The Russian law does not include the word "religion" because Stalin did not want to admit the existence of religion in Russia at the time he wrote the law. But the provisions in the FEPC proposal faithfully follow the Russian pattern and Stalin's "All-Races Law."

The so-called Fair Employment Practices Commission should have another name because the purpose of the Commission requires another name.

Gentlemen, I say instead of calling it a Fair Employment Practices Commission, it should be called a Forced Employment Practices Commission.

The proponents of this type legislation advocate that an employer should be forced to hire persons who might, for various reasons, be undesirable as employees. Labor unions would be affected in the same way.

What the proponents of this legislation have not taken into consideration is that the employers, who provide the jobs themselves, become a minority and are discriminated against and abused, if put under this law.

I don't believe that Congress, or any official of the executive branch of the Government, or the Supreme Court, sitting here in Washington, is as well trained as the individual employer or labor union to decide who they need for the job to be done.

Although 12 States have enacted FEPC laws with enforcement provisions, 36 States have no such provision. To me that is sufficient evidence that a majority of the citizens in three-fourths of the States do not want or feel a need for FEPC, or that the people and their legislatures do not consider it constitutional.

My view is that the FEPC is absolutely unconstitutional because it deprives an employer of control of his business without due process.

If the proponents of the FEPC bill are directing the legislation principally at the status of Negroes in the South, I would like to refer them to a Negro editor for some information as to the real situation in the South.

I am talking about Davis Lee, of Newark, N. J., who publishes the Newark Telegram. Mr. Lee has traveled all over the country during the past several years and has published many stories in his newspaper describing the excellent jobs held by Negroes in the South. He has described how many Negroes have been successful in establishing their own businesses. He has told the story of how Negroes have progressed generally throughout the South.

Mr. Lee has consistently advocated maintaining segregation of the races because it is advantageous to the Negro. He has stated many times that Negroes are best protected within the framework of segregation, because they do not have to compete directly with more able white employees or white businessmen in a segregated system.

He says this gives the Negro an advantage, because under segregation he can carry on a successful business, or compete as an employee, with persons of similar training and background much more successfully than he could if forced to compete in an integrated society.

If the purpose of the advocates of the FEPC is to assist and uplift the Negro and other minority races, I would suggest that they read what Mr. Lee has written. They should attempt to provide assistance without attempting to dictate to any race what its relationship must be to any other race.

There is ample evidence the Negro is better off today under the type segregation practiced in the South than under integration or the type segregation practiced outside the South.

And, possibly the members of the committee saw in the Evening Star yesterday, February 25, 1957, an article entitled "Chicago Is Called the Most Segregated." The first paragraph says that a Chicago human-relations expert says this city is the most segregated city in the United States.

The question then becomes whether the purpose of the legislation is to help the Negro or whether it is designed to try to force integration of the white and Negro races in the South.

As far as the question of fair treatment is concerned, I believe that Mr. Lee could also inform this committee as to some of the pressures which have been brought on him, as an individual and as a New Jersey editor, because he has had the courage to publish his views, and present the facts he has found during his travels.

Finally, Mr. Chairman, I want to make reference to another proposal in this group of so called civil rights bills. This is the proposal to remove the poll tax as a requirement for voting.

While I was Governor of South Carolina, I proposed that the poll tax be removed in my State as a prerequisite for voting. The question was submitted to the people in a referndum and a large majority voted to remove that requirement.

This was done, as it should have been, by action of the general assembly in submitting the question to the people of the State involved.

Only 5 of the 48 States require the payment of a poll tax as a prerequisite to voting. If the people of those States desire to have the

tax removed, they can do so through orderly processes established by the constitutions of those States. Action by the Federal Government is not needed to remove the poll tax in any of those States. Action by the Congress by statute would be in violation of the Constitution.

I believe the attorney general of the State of Texas testified during the hearings last year that the poll tax in that State was earmarked as revenue for public education. In some States it may be necessary to maintain the tax to secure sufficient revenue to defray all of the costs of public education.

The Federal Government has invaded so many fields of taxation that it is terribly difficult for the States to find sufficient sources of revenue to carry on the normal operations of government.

Mr. Chairman, I appreciate the time which has been allocated to me. I would like to say in conclusion that I hope this committee will not recommend the enactment of any of these socalled civil-rights bills.

I believe the effect of enactment of such legislation as these proposals would be to alter our form of government, without following the procedures established by the Constitution.

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

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

The States have lost prestige. But more important, the States have lost a part of their sovereignty whenever the Federal Government has taken over additional responsibilities. That loss might seem unimportant at the time, but gradually it could become a major part of the sovereignty of the States.

Officials of the Federal Government, whether in the executive, legislative, or the judicial branch, should not forget to whom they owe their allegiance. Each of us owes his allegiance to the Constitution and to the people—not to any agency, department, or person. We have taken an oath to support and defend the Constitution.

We must take into account the facts as they really are, and not be panicked by the organized pressures which so often beset public officials.

We must not lose sight of the fact that the States created the Federal Union; the Federal Government did not create the States.

All of the powers held by the Federal Government were delegated to it by the States in the Constitution. The Federal Government had no power, and should have no power, which was not granted by the States in the Constitution.

If this Congress approves the legislation embodied in the bills pending before the committee, it will be an unwarranted attempt to seize power not rightfully held by the Congress or by any branch of the Federal Government.

I hope this committee will consider these facts and recommend the disapproval of these bills.

I wish to thank the distinguished chairman and the members of the committee for the opportunity of being heard here, and I wish also to thank the distinguished and able Congressman from South Caro-

lina, the Honorable Robert Hemphill, who introduced me here on this occasion.

The CHAIRMAN. Thank you, Senator Thurmond, we are very grateful to you for your contribution. You are always welcome before this committee.

We will now hear from our colleague, the Honorable John F. Shelley.

STATEMENT OF HON. JOHN F. SHELLEY, FIFTH DISTRICT OF CALIFORNIA, TO THE SUBCOMMITTEE ON CIVIL RIGHTS, HOUSE OF REPRESENTATIVES

Mr. SHELLEY. Mr. Chairman and members of the Subcommittee on Civil Rights:

Let me first express my thanks for the courtesy you have shown in arranging for me to appear before you today, and also to compliment you on the thoroughgoing manner in which you are proceeding in your study of the vital problem of assuring that none of our fellow citizens are denied the civil rights guaranteed them by the Constitution. Certainly when legislation is reported by this subcommittee, no one can rightfully say that any aspect of the problem has been ignored, nor that full weight has not been given to all shades of opinion, pro and con.

Because of my own lifelong efforts in support of equal opportunity for all races and creeds I have followed closely the progress of these hearings and those in previous Congresses. It is a tremendously good feeling to know that at last we seem to be nearing the goal of congressional action to chart such a course.

For my own part I have long believed that the United States, at a peak never reached by any nation in the history of the world, faces but two really crucial problems, and they are interrelated. The one is the relentless fight against world communism; the other the elimination of second class citizenship as applied to any segment of our people by force of law or custom. As long as such discrimination exists in this land, based on group antagonisms rather than an evaluation of the individual as he stands on his own two feet, so long shall we be morally disunited and subject to the divisive threat of subversive forces.

We do not have to prove the existence of the problem. What we do have to prove is that we are looking for an honest solution. Left to themselves the States and local communities have failed and we might as well admit it. And I speak not only of the South but of countless communities in the North as well—Detroit, where a critical problem is right now receiving the attention of the press; Chicago; New York; the Southwest, where Americans of Mexican ancestry are subject to the same type of treatment as Negroes in the South; and even in my own area, the west coast, to some degree.

The executive branch of the Federal Government has also failed to use either the legal means now given it under discretionary authority, or the moral force of the Presidency to act against the evil. Where the administrative will is weak or subject to political opportunism, it is the inherent duty of the Congress to provide through laws which say "shall" and not "may" the force which will implement the constitutional guarantees with which we are now concerned.

The Constitution which guarantees to the States certain rights, does not guarantee them the right to do wrong. It does, however, contain in its preamble a guarantee of an overriding purpose to "establish justice" and to "promote the general welfare and secure the blessings of liberty" to all citizens, white, black, brown, yellow, or red, and it is that purpose that we must now implement.

The legislation now before this subcommittee will let us take a long stride in the right direction. Your distinguished chairman and the equally distinguished ranking Republican member have both contributed much to clarifying the issues involved. By the legislation they have drafted they have charted a practical course for us to follow in beginning to right the wrongs under which generations of our fellow citizens have suffered.

I personally believe that the Celler bill, H. R. 2145, because of the more explicit guidelines it lays down, should serve as the basis upon which the subcommittee acts.

The establishment of a Commission on Civil Rights to serve as an authoritative body for studying the legal and moral issues, and for formulating executive policy and recommendations is an absolute essential in bringing the executive branch of the Government to a proper exercise of its functions. As a counterpart in the Congress, the provision for a Joint Congressional Committee on Civil Rights in the Celler bill is also necessary lest we tend to delegate too much of our responsibility to the executive authorities.

A third requirement in setting up the legislative and administrative framework needed for active operations in the civil-rights field is provided for in the establishment of a Civil Rights Division in the Department of Justice. Such a new division will lay proper stress on these functions of our law enforcement agencies—functions which have been sadly neglected heretofore. Fourth, the Fderal courts must be granted clear and undeniable jurisdiction over civil-rights violations if the framework we set up is to be complete.

However, it must be remembered that these provisions of the bills now before the subcommittee provide only a framework. If the legislative structure is to be complete we must gird that framework with a definite body of principles and definitions upon which to act. The protection of the right to political participation and of other civil rights provided in the Celler bill, and the criminal penalties authorized for violations of these rights are, it seems to me, an absolute minimum for our present purposes.

Certainly, there are other forms of discrimination widely practiced, such as that in the field of employment, to which attention must be given. But we must in deference to the great difference of views in so many of these problems, and because of the practical impossibility of immediate agreement on all phases be content with a beginning aimed at the more basic discriminations.

I certainly agree with those who contend that mere passage of a law, however comprehensive, will not automatically solve the complex problems of racial discrimination nor bring a new era of good feeling overnight. The deep-seated social attitudes and customs with which we are dealing are not that easily uprooted. We must be wary of any tendency to feel that once the job is begun it will finish itself. Automation has not yet reached that stage of development. The unhappy experience with the 18th amendment should be an example to us in this

regard. Therefore, I feel quite strongly that we must be tolerant of intolerance to a degree at least in the initial stages of this vast undertaking. We must look to other measures than the law for a real and final solution of the unhappy problem.

In the last analysis education must provide the answer. By that I mean not only providing book learning for those to whom it is now denied, but education in the deeper sense. We must educate ourselves to a full understanding and acceptance of the Golden Rule as it applies to our human relations with our fellow man. We must not attempt to force acceptance of a principle where we ourselves are not willing to practice it.

We must, in short, use "deliberate speed" in moving toward our goal of true brotherhood, but we must begin to move toward that goal. I believe that our education has now reached the stage where a fruitful beginning is in order through the legislative processes. For that reason I urge the subcommittee to bring out a bill which will let us take the first step.

The CHAIRMAN. At this time we will hear a statement from the Honorable Thomas Abernethy, of Mississippi.

STATEMENT OF HON. THOMAS G. ABERNETHY, FIRST DISTRICT OF MISSISSIPPI, HOUSE OF REPRESENTATIVES

Mr. ABERNETHY. Mr. Chairman and members of the subcommittee: Much has been said by others who have made statements before your committee about the legal and constitutional aspect of the pending bills, termed by the sponsors "civil rights" legislation. As loose and unintelligible as the provisions of the bills now being considered are, there are real and understandable facts and situations which ought to be considered before the legislation proposed is passed by Congress. To this particular phase I direct your attention.

Neither the large mass of Negroes, nor the white people want the bills being considered enacted into law.

Who really is pressing for the enactment of the so-called civil-rights legislation? I will mention three principal sponsors:

1. A very small percent of Negroes who have stayed in the East or North for a time and have become saturated with the preachings of the sponsors of the NAACP. The NAACP was founded and organized largely by white people who had little or no knowledge of the Negro, the Negro's background, his development, and his relation to the economy and the social structure of the people where he lives. If you count the Negroes who are making all the noise for the passage of these bills compared with the great mass of Negroes who are opposed to it or who have no knowledge about it, and who would be very disturbed if they were subjected by coercion to its provisions you would see that the percentage of Negro sponsors is small indeed. The great majority would be out of place with such law,

2. Another class of persons who are pressing for the enactment of these bills is composed of the people who live in the north and east parts of the country. They are often idealists, crusaders by nature. Many of them have money and time that is not otherwise employed. They are dreamers and planners without a firsthand knowledge of the subject they are dealing with. Many of them are recent arrivals in

this country or are the first generation of such people. They are often saturated with ideals brought from the "old country" from which they came or they are filled with recollections of oppressions endured that caused them to seek a home in America, "the land of the free." They know little of the Constitution of the United States, and have little care about it when its limitations stand in the way of them getting what they want. They are often filled with a spirit of antagonism toward everyone who opposes their efforts and desires. They are the class of people who sponsor the organization of the NAACP, and who provide the money through the foundations to employ a foreign Socialist or Communist, and furnish him the means to surround himself with a multitude of persons with like beliefs, to write the American dilemma. This they did preparatory to a drive to "brainwash" the Federal judiciary so as to secure from it decisions favorable to their purposes even if such decisions were destructive of the Constitution. All this was a forerunner to amend the Constitution by judicial decree so it would no longer stand in the way of them and their plans adroitly arrived at, to put into effect legislation, part of which is represented by these bills.

3. There is a third class that is literally howling for this legislation. This class is composed of politicians, in and out of Congress, whose first interest in anything is to get elected to office. Where the Negro vote is the balance of political power in any district, regardless of political party, that district has a vocal sponsor for the passage of these bills. If it were not for the dread and fear of the Negro vote these bills would never have been introduced in Congress. The Negro has his foot on the neck of both political parties—and they like it. The leaders of both the Republican and the Democratic parties are bowing and scraping to the Negro everywhere. He threatens them and they jump. The President sends Congress special demands for legislation for the Negro. The leaders of both parties fall in line without questioning the constitutionality of the proposals or the ultimate effect it will have on the country or the freedom of the people. They sponsor the proposed legislation regardless of the fact that it would be impossible to enforce it even with an army of spies and secret Federal agents.

These are the principal influences and classes sponsoring this civil-rights legislation.

MOST NEGROES AGAINST CIVIL RIGHTS LAWS

The masses of the Negroes, by and large, do not want this legislation. They do not want all the controversy and dissension it will bring them. The great majority of Negroes know that their relations with the white people have been badly damaged by all the turmoil created by the NAACP and the "do-gooders" stirring up trouble in the Federal courts in an effort to break down the barrier which it is impossible to do They do not want it and would not accept it willingly.

There are some 15 million Negroes in the United States. Probably two-thirds of them are still in the Southern States. But they are going north and east at the rate of a quarter of a million a year, and the tide is accelerating. Of those remaining, thousands own their own homes, their farms, property and businesses. They have their

churches, their schools, their associations and friends, colored and white. They have grown up to know and love their way of life. The church means much to the Negro. He has his particular way to worship. To understand this you have but to turn your radio on here in Washington any Sunday morning between the hours of 8 and 10 a. m., and listen to their programs of song, prayers and shouting. Dozens of Negro congregations are broadcasting their services over the several radio stations, worshipping freely in their own peculiar way. Any other way would not make them happy. Any other way would not be a religious service to them. They are happy. Why bother them by trying to drive them into a way of life they do not understand and do not want. The great mass of Negro people do not believe they would be helped or benefited by the enactment of this so-called civil-rights legislation. The Federal enforcement agents and spies among them would only add to their confusion. If you don't think so you just don't know the Negro.

Negroes naturally prefer the association and society of their own kind. They know the purpose of this legislation is not just to give them the vote, nor to give them better schools. They know that the ultimate and longtime objective of its sponsors is to force the Negroes and white people to mix in all the affairs of life. This the respectable Negroes do not want. They want to be left alone with their own kind. If they were forceably intermingled with the white people they would be out of place from anything they had ever known. They would be the most unhappy people in the world. It would not last. The Negroes would segregate themselves and go back as they were. They do this in New York, in Chicago, in Detroit, in St. Louis, and in every other city. Even in the small towns and villages they segregate themselves because they like it that way. It is the natural way of life; everything after its own kind. They exercise freedom of choice in selecting their companions and friends. Negroes have their peculiar and natural inherent traits of character, and their own ways of thinking and doing things. When a Negro is not pleased with his surroundings and associates he is miserable and will not stand for it long. He would not stay desegregated if pressure should be taken away. They do not want white folks mixing with them in their affairs.

When I was home recently I met an old Negro on the street whom I had known. He said, "Mr. Abernethy, I am sure glad to see you. Things are getting all mixed up down here. They are trying to put us in the white folks' church." I said, "Do you think that is right?" He said, "You know it's not right. If they put us in the white folks church we couldn't preach, we couldn't sing, we couldn't pray, we couldn't shout, we couldn't do nothing. It would just be a mess." He went on to say: "We have our church, our preacher, and we know how to hold our meetings. I wish those folks up North and the NAACP would tend to their own business and let us alone."

This situation could be multiplied a thousand times over, and over. The masses of the Negroes are greatly disturbed by all the turmoil about civil-rights legislation. They are disturbed about forced integration with the whites in the schools and churches, and enforced integration in other activities. The Negro schoolteachers know when this comes they are out of a job. They know the purpose of this legis-

lation is to accomplish the ultimate intermingling of the races and the decent Negroes do not want it or know what to do about it. They are bothered.

THE WHITE PEOPLE OPPOSE CIVIL-RIGHTS LEGISLATION

The white people oppose such legislation as is proposed in these bills. They know the move to pass the bills is purely political, to please some would-be Negro leaders of the North and East. It is an effort to secure their votes when elections come along. It is unthinkable that Congress would give the time and consideration to such as the proposed legislation.

The white people oppose the "civil rights" legislation because, if held to be constitutional (and may the Fates help us from what the presently constituted Supreme Court would do on any enactment by Congress where the self-appointed Negro leader has an expressed wish) it would wipe out completely the 10th amendment to the Constitution, and destroy the last vestige of the States rights. It would take from the people the "reservoir of all rights not granted"—all claims that the people are inherently the source of all political power.

It is clear that a governmental system containing investigators, spies, Federal agents, and Federal injunctions issued by Federal judges, without charge, jury or hearing, against persons who are miles away and who have never been in the presence of the Court, is a far cry from the United States Government we knew only a few years ago. If the proposed bills were passed by Congress and the machinery contained therein for their enforcement were put into effect under a civil rights division of the Department of Justice we would have a government Russia would envy. It would be simpler and far more honest just to pull the veil of pretense and hyprocrisy aside and say we are adopting the Russian method of dealing with the people. Such methods are proposed in the civil rights bills to enforce such a law, would leave the people at the mercy of Federal spies, and rob them of their liberties and freedom of choice, for all time to come. It would take a strong Federal hand to accomplish the things that are being promised the Negroes by these bills just to please them to try to get their votes.

The difficulties that will arise under the laws here proposed will not be peculiar to any one part of the country. They will rise up to haunt you who are proposing them, in the years to come. You are trying to please the Negroes. The Negroes are moving North and East at the rate of 250,000 a year. Soon you will have them in such great numbers you will no longer point to them in the South. They will be yours and your problem. It will always be the same where you try to mix the races. It just won't work.

A few days ago, the Associate Press reported the following:

POLICE GUARD HOME OF DETROIT NEGRO

DETROIT, *February 13, 1957*.—Police maintained an around the clock guard yesterday at the home of a Negro who moved into an all-white Northwest Detroit neighborhood February 1. Posting a guard followed the dispersing of a protesting crowd at the home Monday night. Police said Mrs. Ethel Watkins, a widow seamstress, was undisturbed for some 5 days after she moved into the home. A window was broken by a stone last Wednesday and another Saturday. Police estimated that 200 white persons gathered at the home Monday night, but said they dispersed quietly and without incident when ordered to do so.

No one was arrested and no one was injured. The house, in a neighborhood of $11,000 and $12,000 homes, was sold to Mrs. Watkins by a real estate firm operated by Negroes.

This happened in Detroit. It will happen anywhere. Detroit is one of the cities that has a Negro Congressman. Detroit, New York, and Chicago, and many other northern cities have had bloody race riots, due to an attempt to mix the Negro and white races, and the fact that they have elected Negro Congressmen and other Negro officials has not changed the situation.

No amount of civil-rights legislation or Supreme Court decrees will change the nature of men nor solve the problem that always arises when the races are mixed. None of these things can cause a gentle mixing of the Negro with the white race. That is the objective of these bills which propose "civil rights" laws. You who are sponsoring this legislation are laying out trouble for the Negro race, and for the white race. You are pulling the foundations of liberty out from under our Government as a republic of the people, for the people, by the people.

The CHAIRMAN. Our next witness this morning is our distinguished colleague from Virginia, the Honorable Edward J. Robeson.

STATEMENT OF HON. EDWARD J. ROBESON, JR., FIRST DISTRICT OF VIRGINIA, HOUSE OF REPRESENTATIVES

Mr. ROBESON. Mr. Chairman and gentlemen of the committee, I appear before this committee today in opposition to the legislation now under discussion. The vast majority of the citizens I represent are opposed to this legislation. They feel that it is an unjustified invasion by the Federal Government of rights reserved to them and the State of Virginia by the Federal Constitution.

It is my opinion, and in fact my conviction, that the proposed legislation which this committee is now considering, if enacted, will violate provisions of the Constitution of the United States. It has been and is now my purpose to uphold the Constitution of the United States. I am further obligated in this respect by my oath of office.

Located in the First Congressional District of Virginia which I have the honor to represent are Jamestown, Williamsburg, Yorktown, and many other historic landmarks of this country's early history. My home on the James River is nearby, and I have on many occasions been present with others who gathered to commemorate events of great significance to all Americans.

Love of liberty and respect of the rights of mankind are inherent in the nature of the people of Virginia. Virginians will not willingly relinquish the rights guaranteed to them by the constitution of Virginia or by the Constitution of the United States.

It is also my opinion that an impartial and objective investigation will show conclusively that there is no basis of fact sufficient to warrant Federal legislation such as is proposed. The effect of Federal implementation can be reasonably expected to bring about serious adverse influences which will make impossible continuation of the present sympathetic, friendly, and generally satisfactory relations between the white and the colored races which now prevail, particularly in the Southern States.

Recorded human history gives no comparable accomplishment of the development of human relationships in which the descendants of primitive-type people have been integrated to such a degree by another race whose forebears had for many centuries enjoyed a high degree of economic, cultural, and religious background.

May I emphasize that our people of both races worship God in the same faith and in like manner, speak the same language, and have in general the same customs.

Particularly in Virginia and other southern States they live and work together as friends and neighbors with mutual respect and regard. As basically Christian people we encounter an almost unbelievable minimum of difficulty because of the inherent obstacle of racial characteristics.

Like many citizens whose forebears for generations have lived in the favored Southland of our great country, I am unable to consider the relationships of the two races in generalities based on the racial differences. Rather, people of the Negro race are to me individuals, and for many of them from infancy to the present day I have an abiding affectionate regard and a sense of responsibility toward their well-being and happiness.

My concern is primarily for these Negro citizens whose well-being depends to so great an extent upon the good will of the white citizens who presently are their friends and neighbors.

For many years prior to my election to Congress on May 2, 1950, as an industrial executive in responsible charge of personnel administration, industrial relations, and public relations with one of the world's foremost shipbuilding organizations, much of my time and effort was directed toward establishing and maintaining harmonious relationships in industry and the community. I can, I hope, with becoming modesty, admit to recognized competency in the field of human relationships not only in industry but in their broader aspects.

In my home area of Virginia the population ratio is approximately 25 percent Negro. For many years the company with whom I was associated and other employers have maintained a similar employment ratio. The conditions of work, rates of pay, and employee benefits are applicable to all employees alike.

There has never been a work stoppage or race friction in this shipyard, and the white and colored citizens have worked harmoniously together on the same jobs and lived in the same communities. There are four large hospitals in this area. Three accept both white and Negro patients. One, the Whittaker Memorial Hospital in Newport News, is entirely managed, staffed, and operated by Negroes for Negro patients. I know of no other such hospital.

There are competent Negro citizens engaged in the numerous professions. Many profitable businesses are operated by Negroes. Some of these are patronized by and are dependent on white customers. To illustrate, perhaps the most popular barbershop is Negro operated and is located in the main business section near the largest bank.

Our Negro citizens have their own churches, bank, and places of amusement and entertainment. The schools, of which they are justly proud, have 100 percent Negro principals and faculties.

The Huntington High School for Negroes is a top-ranking high school with nearly 3,000 students. They have a modern school building and modern facilities, a floodlighted stadium, large gymnasium,

and other facilities beyond what less modern white high schools in this area now have. There has never been any race friction among our schoolchildren or population.

This is no unusual picture for many and perhaps most localities in the Southern States. However, you may be assured that the legislation now being considered, together with the implementation of the recent Supreme Court decision, will relegate such outstanding accomplishments to the more glorious past history of our people. It will be impossible to continue the race relationships upon which such a society as I have described must rest.

There is nothing new in the current effort to persuade minority segments of a society to accept the illusion presented by political and Government leaders to bring through manmade law and courts or military enforcement, a better way of life. Inevitably and with certainty, disasters overtake them. I also have concern that the proposed legislation is but another step which can and will bring us nearer to the point foreseen 120 years ago by Abraham Lincoln when he said in a speech at Springfield, Ill., on January 27, 1837:

> * * * At what point, then, is the approach of danger to be expected? I answer, if it ever reaches us it must spring up among us; it cannot come from abroad. If destruction be our lot we must ourselves be its author and finisher. As a nation of freemen we must live through all time, or die by suicide.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Robeson.

We will next hear from our distinguished colleague on this committee, the Honorable William M. Tuck, former Governor of the State of Virginia, introducing the Honorable J. Lindsay Almond, attorney general of the State of Virginia.

Governor, we are glad to hear from you.

Mr. TUCK. Mr. Chairman and members of the commmittee, it is now my distinct privilege and pleasure to present to you my longtime friend and distinguished attorney general of Virginia, the Honorable J. Lindsay Almond, Jr.

Judge Almond was elected attorney general in 1948 while a Member of the 80th Congress, and he served as attorney general during my last 2 years, during the last 2 years of my administration.

He has continued in that office to the present time. Prior to his service in the Congress, he was the judge of the court of record of the city of Roanoke. He is now a candidate for the democratic nomination for the office of Governor of Virginia, and it is generally believed—and I share the view, and certainly hope it will be the case—that he will be the next Governor of the Commonwealth of Virginia.

I present to you Judge Almond.

The CHAIRMAN. We are glad to hear from you, Judge.

Mr. KEATING. You have come quite a long way since then; you have risen from Governor of Virginia to the Congress of the United States.

Mr. TUCK. Yes, sir; that is right.

The CHAIRMAN. You may proceed, Judge Almond.

Mr. KEATING. I might say that you could not have been introduced under more favorable auspices, than our distinguished friend who served with us on this committee, Governor Tuck.

STATEMENT OF HON. J. LINDSAY ALMOND, ATTORNEY GENERAL OF THE COMMONWEALTH OF VIRGINIA

Mr. ALMOND. Thank you, sir.

Mr. Chairman and gentlemen of the committee——

The CHAIRMAN. Have you a prepared statement and copies thereof that we can use?

Mr. ALMOND. I am sorry, sir. I have a statement, but it was done rather hurriedly, and my secretary did not have an opportunity to make copies that I could make available to the committee and others present here today, for which I apologize.

I want to thank you, Mr. Chairman and gentlemen of the committee, for according me this privilege. I would like also to express my very deep sense of appreciation to my former Governor, Governor Tuck, a distinguished member of this committee, who made the very charitable introduction.

I appear in opposition to the pending measures, viz: H. R. 1151 and H. R. 2145. I have no way of knowing which of these bills will emerge from committee. I have reason to believe that H. R. 1151 will in substance be acted upon by the House.

You are so thoroughly familiar with the purpose, scope, and content of both that I will not undertake to analyze either in detail.

Both would establish a Commission on Civil Rights in the executive branch of the Government.

Both would provide for an Assistant Attorney General.

Both would amend and supplement existing civil-rights statutes.

Both deal with the right of franchise.

Both are incongruous, inconsistent, and self-refuting.

Gentlemen, this is the first time I have witnessed advocacy of the creation of a Commission to investigate alleged conditions, ascertain factual situations and circumstances as a basis upon which to predicate subsequent remedial legislation and in the same bill seek to spread upon the statute books a substantive law designed to remedy the conditions which are so allegedly necessary to be investigated.

The procedure, so ill considered and recommended, is to apply the cure to the alleged disease and diagnose the disease at a later date. Under such circumstances no consideration is given to the prognosis of tragedy.

Now, if it is necessary to create another bureaucratic and costly Commission to run down propaganda and chase gossip relating to allegations infringing upon the right to vote and that "unwarranted economic pressures" are being applied it is incongruous, inconsistent, and self-refuting to assume that the gossip is true and the economic pressures actually exist.

If the Commission is necessary, then broad expansion of substantive civil-rights legislation is not. If conditions justify substantive legislation, then the Commission is useless and unnecessary and of itself constitutes "unwarranted economic pressure" on the back of the already overburdened American taxpayer.

There is one certain, and to many people salutary, thing that such a Commission so proposed will accomplish. It will set up another costly bureau and add another tentacle to the Federal octopus. The 2-year limitation upon its duration will mark its first milestone to

perpetuity. There will be just as many left-wing pressure groups howling for its permanency as now demand its creation.

Considerations of political expediency which spawned it will not let it expire. Its hordes of employees and snoopers will perpetuate themselves on the public payroll. "The Commission may appoint a full-time staff director and such other personnel as it deems advisable." It may "utilize services of voluntary and uncompensated personnel." It may pay their actual and necessary travel expense plus subsistence to the extent of $12 per day.

Rest assured, with such comfort as you may, they will be legion and of that variety which produced Gunnar Myrdal's American Dilemma, that source of high judicial authority which brands the Constitution as a "near fraud on the pepole" and as "impractical and unsuited to modern conditions."

The Commission is vested with sweeping powers so broad, so general, and unbridled as to constitute it a board of inquisition and ex parte condemnation. It will provide a source of harassment to the several States which it will seek to victimize in derogation of their rights under the Constitution to administer their own internal governmental affairs.

Without any criteria or standards for its guidance and direction or to require it to inform those against whom its inquisitions may be directed, it is commanded to investigate allegations, however chimerical or insubstantial, relating to the right to vote and "unwarranted economic pressures." What the form and substance of the allegations may be is left entirely to the whim and caprice of the Commission or to the person, association, or corporation invoking its powers.

However spurious the allegation or irresponsible its proponent, the Commission is commanded to investigate. Who but the Commission or the agitator is to determine what constitutes "unwarranted economic pressure"?

Is the fact that a citizen alleges that he is too impoverished to pay a $1.50 poll tax as a prerequisite to the right to vote "economic pressure"? Is the fact that he must travel a considerable distance to the polls without means of transportation "economic pressure"? Is the fact that he is refused credit by a bank, merchant or neighbor and so alleges, sufficient to bring him under the guardianship of the Commission?

Those who would regard this approach as facetious, I would call to their attention the case of *Griffin* v. *Illinois*, decided by the Supreme Court of the United States on April 23, 1956, when it was held that a State could deny an appeal in a criminal case without violating Federal due process and equal protection under the 14th amendment, but that when a State does allow appellate review it must pay for the transcript of the record if the appellant is too poor to pay for it himself. The effect of this decision was to establish economic equality for all defendants in criminal cases.

Under the sweeping language of this bill the Commission would be required to investigate an allegation of unwarranted economic pressure that a State judge had fixed bail in a criminal case at what he deemed a reasonable sum which a wealthy man could raise and a poor man could not.

The Commission is required to "study and collect information concerning economic, social, and legal developments constituting a denial of equal protection of the laws under the Constitution."

A decision of a State court subject to a review by a State court of last resort would be a "legal development." The enactment of a statute relating to a matter of State concern is a "legal development." The action of a governor in the exercise of his prerogatives in making a proclamation in an emergency or issuing an executive order or directive is a "legal development."

This act would require the Commission to inquire into and investigate the judicial, legislative, and executive branches of the State government and invest a nonjudicial body with power to adjudge their judgments, orders, decrees, enactments, proclamations, and directives to bear the stigma of a denial of equal protection of the laws.

The right of an individual to invite into his home whomsoever he might choose, or a club, association or fraternity to select its members and guests are "social developments." This measure would require the Commission to inquire into this if, perchance, it should decide that such constitutes a denial of equal protection of the laws.

The right of a State to prohibit miscegenatious marriages or to uphold and preserve its public policy relating to miscegenatious cohabitation is both a social and a legal development. Yet you require the Commission to inquire into this if it should imagine same to constitute a denial of equal protection of the laws.

As fantastical as it may seem, these are some of the duties which you impose on the Commission in mandatory language. These are some of the powers with which you would invest it in utter abrogation of State sovereignty and in callous disregard of individual rights.

The Commission or any subcommittee of two members may hold hearings and act at any time suitable to its convenience at any place under the jurisdiction of the American flag.

One member, the Chairman of the Commission or the chairman of a two man subcommittee, may require any person to attend at any time at any place designated anywhere in the United States. Such person may be required to answer any question propounded and any allegation made against him however ridiculous or frivolous the question or however embarrassing and unfounded in fact the allegation may be.

The person summoned, be he private citizen, representative of a corporation, association, partnership, judge, governor of a State, member of a State legislature, public official, judge of an election precinct, member of an electoral board or what not, may be required to produce any written matter, record, journal, ledger or document, official or otherwise, and submit himself to examination and cross-examination at the hands of the Commission, any member thereof or any person designated by the Commission for the purpose. The person designated to examine and cross-examine might well be one of the "voluntary and uncompensated personnel" provided by the NAACP, the ADA or some other professional agitator.

The Commission would have authority to summon to some distant place an election official on the eve or in close proximity to the date of an important election, thus causing him to absent himself from his post of duty and responsibility and compel him to produce records indispensable to the proper and lawful conduct of the election. The

process and power of the Commission could be used to preclude the rights of innocent and law-abiding citizens in the exercise of their franchise and to interfere with and abridge the right of a sovereign State to conduct its own elections.

It should not require the citation of authorities, which are abundant, to sustain the proposition that the vesting of such unbridled authority in any Federal Commission or body is in transgression of the Constitution of the United States. To put it bluntly, it constitutes deliberate and unwarranted Federal interference in an essential phase of government denied by the Constitution to the Federal Government and expressly reserved to the States.

It is as appealing as it is incredible to me that the President and the Attorney General of the United States would call upon this committee and the Congress to create a Frankenstein monster with powers exceeding in scope and fraught with dangers more dire to the public interest than any power which the committee itself possesses, and which the Congress has ever seen fit to confer upon it. You are asked to create a Commission on Civil Rights and empower it to perpetrate civil wrongs.

In addition to this, any person who fails to appear before the Commission in obedience to a summons or to produce a truckload of records at his own expense and inconvenience at some remote and distant place in this country may, at the instance of the Attorney General, be fined and jailed for contempt. He may have a good defense to the contempt citation and yet may be required to travel from Virginia to California or from Texas to Maine to assert it. This is not necessarily the exercise of the normal functions and power of government. It borders too closely and too dangerously on the exercise of the power of tyranny.

An additional Attorney General. I have no objection to the Attorney General having all the assistance he needs to properly perform the necessary duties of his high office.

How many assistants to the assistant will be required remains unanswered. It is reasonable to assume that they will be legion. The Attorney General feels that it is necessary to have this additional assistant in order that he may be placed in charge of a new civil rights division in the Department of Justice. The design behind this is to give permanency and progressive continuity to the constant attempt to broaden and expand Federal authority into an area which belongs to the States.

It is part and parcel of the program to constitute the Attorney General as Father Confessor, parens patriae and special counsel at public expense to every person who fancies that he has a civil-rights grievance. It will enable the Attorney General of the United States to establish and promote a collection agency to process civil suits for damages at the behest of individuals who should employ and pay counsel of their own choosing. The Attorney General has full authority to assign an assistant to this division without creating the expensive burden of a new office.

PART III. TO STRENGTHEN THE CIVIL RIGHTS STATUTE

This to me is diametrically opposed to every concept of Anglo-Saxon jurisprudence.

The Attorney General not only proposes to violate the sacred precincts of the constitutionally embedded system of trial by jury, but he proposes to abolish it as the time honored safeguard and means of applying the sanctions of a penal statute. He proposes to enlarge and substitute therefor the contempt powers of the Federal judiciary. He would set at naught and banish from the American scene the right of an accused person to demand the nature and cause of accusation against him, to be confronted by his accuser, to demand proof, to place himself in a position to plead former jeopardy and to cross-examine those adverse and hostile to his rights. In order to accomplish his purpose to amend the criminal conspiracy statute he would sacrifice these constitutional principles.

The proposed amendment would permit the Attorney General to institute a civil action for the United States or in the name of the United States for the benefit of a third party for redress or preventive relief whenever any persons have engaged or are about to engage in any conduct which would form the basis of a cause of action under the conspiracy statutes. He could apply for a permanent or temporary injunction, restraining, or other order. The application could be ex parte and without notice.

The argument advanced in support of this procedure is puerile. It was a pretended dislike to invoke criminal sanctions because as against public officials they were inflammatory and productive of hard feelings. I ask what would be more productive of inflammatory feelings and conditions than to sneak into a Federal court, stigmatize a citizen with proof of illegal conduct in an ex parte proceeding, secure a temporary injunction or restraining order, and in effect convict him of crime without affording him an opportunity to be heard and to submit his cause to a jury of his peers?

Recognizing the sterility of logic in the reason first assigned the Attorney General comes forward with his real reasons. I quote him:

> I don't want to amend the criminal statute because the leading case—*Screws* v. *United States*—on the subject holds that in order to convict under the criminal statute you must prove a willful intent.

This is tantamount to saying: "I want to be in a position to harass and convict for an unintentional and inadvertent violation."

The Attorney General considers it nicer, less offensive and more conducive to public peace and tranquility to eliminate the essential component of intent as a requisite of guilt and to evade the burden of proving guilt beyond a reasonable doubt, while at the same time depriving the defendant of his right to trial by jury.

This amendment is totally unnecessary. The civil-rights statutes now provide for every reasonable safeguard. Every person who under the color of any law, custom or usage, the enjoyment of whose rights are threatened, or who is deprived of any of his rights, is afforded ample remedy at law or in equity against those offending (Rev. Stats., sec. 1979, title 42, ch. 21, sec. 1983).

We have a penal statute making it a crime to exclude any qualified citizen from jury service on the basis of race or color (title 18, sec. 243). The Federal courts have exclusive jurisdiction over these matters. The President is invested by statute with power to direct Federal judicial and trial officials to conduct speedy trials (Rev. Stats., sec. 1988 (title 42, ch 21, sec. 1992)).

Every reasonable and proper safeguard has already been thrown around the exercise of the right of franchise. There is no more reason to justify making the Attorney General personal counsel for private individuals in matters relating to civil rights than there is to assign him this novel responsibility in other tortious fields.

This, in my judgment, is a dangerous innovation in Federal substantive and procedural law. It would place in the hands of a partisan Attorney General a drastic weapon which could too easily be converted into a sword of oppression. It could confederate him with any and every pressure group whose stock in trade is to stir up strife and foment litigation.

In these proceedings instituted by the Attorney General the United States would "be liable for costs the same as a private person." You would have the anomalous situation of the people of this country providing legal counsel for private individuals and guaranteeing payment of the cost of endless and voluminous litigation.

A housewife who terminated the services of a cook or maid could be summoned under threatened penalty of contempt and compelled to make explanation. The results of her cross-examination before the Commission could form the basis of a civil action for damages brought against her by the Attorney General of the United States.

You have had before you the pathetic and astounding picture of the Attorney General beseeching and imploring the Congress of the United States to place him and his high office in a position to, wittingly or unwittingly, become particeps-criminis with runners and cappers and those who would practice barratry, champerty, and maintenance.

There has been much said about "unwarranted economic pressures." The very powers which you would by this legislation create could and, I fear would, become the most deadly instrumentality of "unwarranted economic pressures" ever foisted upon any people.

The Commission on Civil Rights would function hand in glove with the sweeping powers of the Attorney General. Every person summoned before the Commission would be, in effect, subjected to the office and function of a bill of discovery.

That person would stand under the dire and coercive threat of being amerced in damages through a civil suit brought immediately thereafter by the Attorney General. Enactment of this legislation would place in the merciless hands of unscrupulous pressure groups a weapon of coercion, intimidation and "unwarranted economic pressures" productive of racial discord, hatred, and strife of proportions appalling and inimical to the welfare of the Nation.

THE ADMINISTRATION'S DISTRUST OF STATE COURTS, ABOLITION OF ADMINISTRATIVE REMEDIES

There is no more salutary rule in American jurisprudence than the requirement for the exhaustion of State administrative remedies before resort to a Federal court. The pending proposals provide for its abolition in the amendment to the civil-rights statutes and the amendment relating to the right to vote.

Instead of abolishing this time-honored rule of comity, it should be enlarged to include State judicial as well as administrative remedies.

It is the rule of comity and a rule of commonsense. Wherever parties may have their rights adjudicated and remedies afforded at the State

level, Federal courts should not interfere. The jurisdiction of State courts should not be ousted.

State courts take due cognizance of Federal questions and construe and apply their own statutes with due regard and respect for the Federal Constitution. The writ of certiorari is always available with reasonable facility.

Federal legislation abrogating and rendering ineffectual administrative remedies provided by a State is an unwarranted interference with the orderly process and functions of State government. It is simply another strangling tentacle of the octopus of Federal encroachment.

I can only sum it up as a deliberate, open, and blatant expression of total lack of faith and confidence in the virtue, efficacy, and integrity of the State judicial system in particular and State government in general.

Instead of curtailing and limiting Federal jurisdiction already rapidly devouring our federated system and reducing the several States to inanimate marionettes, it is proposed by this legislation to enlarge it by striking down State law.

In Virginia it is provided by statute that any person denied registration to vote shall have an immediate right to appeal without payment of a writ tax or giving any security for costs. The procedure is so simple as to obviate the necessity of employing counsel. It is provided that the proceeding shall take precedence over all other business of the court and shall be heard and determined as soon as possible. Judgment in favor of the petitioner entitles him to register at once. If the judgment be adverse to him, he has the right of appeal to the supreme court of the State. The election machinery of the State or locality would not in anywise be impeded or affected.

The pending measures before you would enable the Commission or the Attorney General, or both, to harass, disrupt, impede, and obstruct the State's duly ordained election machinery and would prevent the holding of any election at all, thereby denying to others their right to vote and produce governmental chaos.

That which is proposed here is not only wrong as a matter of policy, but directly contravenes the Constitution of the United States and in addition defeats the very purpose allegedly sought to be accomplished.

MEDDLING WITH STATE ELECTIONS

The proposed amendment relating to the right to vote reaches further than ever before into an area explicitly reserved by the Constitution to the States.

Irrespective of any safeguards, however effective they may be, thrown around the exercise of the right to vote by a State, the Attorney General, without any limitations, may step in and virtually take over. State law, remedy, procedure, State right, jurisdiction, and authority he may ruthlessly brush aside.

Here no matter of race or discrimination is involved. This represents a bold and unprecedented arrogation of Federal power in utter and defiant exclusion of the constitutional rights of a State to regulate and administer her own electoral process. Neither the 14th nor the 15th amendments are here involved. The next step may well be for the Attorney General to prevail upon the Supreme Court to invoke

its extraconstitutional doctrine of Federal preemption and implied supersession, and hold that Congress having legislated on the subject of elections for Federal officials has preempted the field to the total exclusion of State authority.

There is no such thing as a Federal election. There is no Federal election machinery, and the Constitution authorizes none. Every election for any office, high or low, is a State election conducted under the provisions of State law by State officials and State administrative agencies. The Constitution confers no authority on the Federal Government to provide for, conduct, regulate, or administer any election. The Constitution expressly negates every concept of any such authority in the Federal Government and on the contrary makes it abundantly clear that such authority resides only with the States.

If this legislation which is designed to delve into and interfere with the election processes is necessary and in the national interest, let it be accomplished through the medium of an amendment to the Constitution. Its enactment is nothing short of a naked arrogation and usurpation of power by the Congress devoid of any semblance of constitutional sanction or warrant. It is not torture of the Constitution; it is ultra vires defiance of the Constitution.

We hear so much prattle today about "the supreme law of the land." It comes from those who lift this phrase bodily from its constitutional setting and context with no consideration for correlative and apposite constitutional language. Any enactment and any judicial pronouncement which is not under the authority of and pursuant to the Constitution does not and cannot bear the halo of "supreme law of the land."

Those who subscribe to or connive at the so-called doctrine of constitutional evolution are not only undermining the pillars of our constitutional system but are sowing the virus of disrespect for the Constitution itself.

Enactment of this legislation sets the stage, opens the door and invites the Supreme Court to apply the nefarious doctrine pronounced by it in *Commonwealth of Pennsylvania* v. *Steve Nelson* on April 2, 1956. With full knowledge of the danger ahead and the far-reaching implications of the *Nelson* case you will invite the application and extension of the doctrine of preemption that Congress has "occupied the field to the exclusion of parallel State legislation." Irrespective of the views of the Attorney General, I cannot conceive that the Congress intends to bring this to pass.

No pretense has been made that the pending proposals find any refuge in the 15th amendment. It is totally void of sanction under the 14th amendment. That amendment proscribes State action only. Here, you seek to deal with individual rights inter sese. The 14th amendment has heretofore been amended by the Supreme Court in violation of article 5 of the Constitution. Surely the Congress will not embark upon another amending voyage, without submission of the issue to the people.

May I remind you of the language employed by a great liberal of commanding stature, Mr. Justice Oliver Wendell Holmes, in *Baldwin* v. *Missouri* (281 U. S. 586):

> I have not yet adequately expressed the more than anxiety that I feel at the ever-increasing scope given to the 14th amendment in cutting down what I believe to be the constitutional rights of the States. * * * I cannot believe that

the amendment was intended to give us carte blanche to embody our economic or moral beliefs in its prohibitions.

Then again, another great liberal, Mr. Justice Brandies in the *Erie Railroad* case:

* * * there stands, as a perpetual protest against its repetition, the Constitution of the United States, which recognizes and preserves the autonomy and independence of the State, independence in their legislative and independence in their judicial departments Supervision over either the legislative or the judicial action of the States is in no case permissible except as to matters by the Constitution specifically authorized or delegated to the United States. Any interference with either, except as thus permitted, is an invasion of the authority of the State, and, to that extent, a denial of its independence.

In order for these measures to find lodgment in the 14th amendment it would be necessary to place a construction thereon never contemplated by those who wrote it, but in fact expressly rejected by them.

Judging solely from what has been said as a matter of public record in sponsorship of this legislation by the Attorney General, members of the Senate and House of Representatives and their cohorts and confederates of the NAACP, the ADA, and their prototypes, it is shockingly punitive in purpose and design and aimed directly and insultingly at the Southern States. It was not conceived in response to the demands of the national interest, but engendered in hate and motivated by political expediency.

In opposing a measure similar in nature that great Republican statesman from Idaho, Senator Wm. E. Borah, speaking in the Senate of January 7, 1938, said in reference to the Southern States:

These States are not to be pilloried and condemned without a full presentation of the nature of the task which fate and circumstances imposed upon them, and not without a complete record as to the weight and difficulty of the task, what has been done, and with what good faith it has been met. I shall contend that the Southern people have met the race problem and dealt with it with greater patience, greater tolerance, greater intelligence, and greater success than any people in recorded history, dealing with a problem of similar nature.

This problem was in the process of progressive and constructive solution in a spirit of mutual good will and in promotion of amity and concord between the two races. The course which this legislation will shape and direct will destroy much of the salutary gain already made and accentuate and stimulate the gravity and difficulty of a solution in the days ahead.

The following statement from President Coolidge is a logical and annihilative answer to the pending proposals:

It is too much to assume that because an abuse exists it is the business of the National Government to provide a remedy The presumption should be that it is the business of local and State governments. Such national action results in encroaching upon the salutary independence of the States and by undertaking to supersede their natural authority fills the land with bureaus and departments which are undertaking to do what it is impossible for them to accomplish, and brings our whole system of government into disrespect and disfavor

The Nation is inclined to disregard altogether too much both the functions and the duties of the States They are much more than subdivisions of the Federal Government They are also endowed with sovereignty in their own right

Nor do I consider it ever inappropriate or untimely to invoke the sage counsel of Woodrow Wilson:

Moral and social questions originally left to the several States for settlement can be drawn into the field of Federal authority only at an expense of the self-

dependence and efficiency of the several communities of which our complex body politic is made up.

Paternal morals enforced by the judgment and choices of the central authority at Washington do not and cannot create vital habits or methods of life unless sustained by local opinion and purpose, local prejudice and convenience—unless supported by local convenience and interest; and only communities capable of taking care of themselves will, taken together, constitute a nation capable of vital action and control.

You cannot atrophy the parts without atrophying the whole. * * * It is the alchemy of decay.

This legislation repudiates the counsel, wisdom, and experience of the great and hallowed dead who practiced what they preached and are revered by the country they served.

Many of us, with faith and hope, were led to believe that President Eisenhower drew inspiration, strength, and wisdom from them when he made and often repeated this statement to the American people:

I want to see maintained the constitutional relationship between the Federal and State Governments, for if the States lose their meaning, our entire system of government loses its meaning and the next step is the rise of the centralized national state in which the seeds of autocracy can take root and grow. You will see that the legitimate rights of the States and local communities are respected. We will not reach into the States and take from them their powers and responsibility to serve our citizens.

To me the record demonstrates the inescapable and irrefutable conclusion that the present leadership preaches one course of action and basic philosophy but advocates and practices its direct antithesis.

That concludes my statement, Mr. Chairman and gentlemen.

The CHAIRMAN. Thank you very much, Mr. Attorney General, for the very stirring and detailed statement which will be very valuable to the committee, I am sure.

Thank you very much, Governor Tuck.

Mr. TUCK. Thank you.

Mr. ALMOND. Thank you, Mr. Chairman.

The CHAIRMAN. At this point, we will insert into the record, without objection, a statement by John T. Blue, Jr., of the American Council on Human Rights; a telegram addressed to me from Raymond E. B. Ketchum of Fernandina Beach, Fla.; and a letter addressed to me from Mr. Robert W. Beasley, chairman, board of social action, Christ Congregational Church, Silver Spring, Md.

STATEMENT BY JOHN T. BLUE, JR., BEFORE THE HOUSE JUDICIARY COMMITTEE IN REGARD TO THE URGENT NEED FOR CIVIL-RIGHTS LEGISLATION

I am John T. Blue, Jr., director of the American Council on Human Rights, which is a cooperative program supported by five collegiate sororities and fraternities, Alpha Kappa Alpha Sorority, Delta Sigma Theta Sorority, Kappa Alpha Psi Fraternity, Sigma Gamma Rho Sorority, and Zeta Phi Beta Sorority. Our constituent member organizations have a membership of 70,000. Our program directly involves 120,000 college students and alumni. Our membership is gravely concerned about the inability of the States and the Federal Government to maintain law and order. The elected officers in some States have counseled and abetted the disfranchisement of several million citizens, both white and Negro, which is a violation of the spirit of their oath in which they pledge themselves to uphold the Constitution of the United States.

The concept of State rights has been twisted and distorted so that in effect it is presumed to allow the defiance and frustration of the decision of Federal courts. Some elected officers have encouraged, counseled, and, indeed, proclaimed nullification of court decisions and Federal actions which would give to sorely burdened citizens rights clearly bestowed in our Constitution. This

is a devious form of subversion and cannot but ultimately shake our constitutional system if the practices become more widespread.

The zealousness of many southern State officials to preserve racial practices which are but barbaric survivals of the institution of slavery has blinded them. They have on the issue lost sight of the concept of State's responsibility, which is a comcomitant of States rights. They have eschewed and rejected the States' responsibility in many cases. Our system of government is predicated on the principle of parsimony: the least government the better, and correlatively: the least legislation and law the better. Legislation is to guide and to remedy. When States adequately carried responsibility, there is no need for, nor has there been, Federal action on a problem. But when States default on their responsibilities or are helpless to cope with a problem, the Federal Government is obligated to render in all ways consistent with the constitutional system.

The facts indicate that civil-rights legislation is long overdue. Appointed and elected State officers have in many cases contrived means of preventing citizens from registering and voting. Terrorism, intimidation, and assassination supplement the administrative blocs to the exercise of the franchise. Large proportions of those qualified by age and citizenship who are interested in exercising the privilege and responsibility of voting cannot do so. Twenty to fifty-five percent of the potential voters determine who will represent the people of a jurisdiction.

Citizens who are unable to exercise the franchise are unable to influence legislation or the policies and practices of administrative officers. There has been written into law a host of statutes requiring that citizens submit to segregation in every phase of life involving contacts between races. These States and local ordinances and statutes prescribe the following: colored schools and white schools, colored entrances and white entrances, colored seats and white seats, colored athletics and white athletics, colored taxis and white taxis, ad infinitium. These practices enforced by law are survivals of the ritual practices associated with slavery.

The policy statements used to justify this are phrased in terms of * * * "separate but equal." However, practices of legally enforced separation have been clearly established to be separate and unequal. Legally enforced separation has resulted in less adequate services and inferior education. Unequal inconvenience is imposed on a class of citizens by law. Further, this enforced separation is intended and does convey to all the participants and observers the idea that a class of American citizens is inferior and subordinate. It is to be noted that these statutes provide that enforced separation does not apply when the Negro is a servant accompanying a white person. The best avenue of redress against this type of legislation is, in the final analysis, the effective enfranchisement of the people enduring these travails. As voting citizens, they will be able to ameliorate their lot by seeing that local law and policy are made consistent with the American ideal of equality and brotherhood.

Some opponents of this legislation have strived to create the impression that there is no problem requiring civil rights legislation. The vast amount of legislation recently enacted, and now pending in the legislatures, as well as the violence, bombings, and intimidations making headline news over the past few years, contradict these assertions. By State law, it is illegal: (1) to advise a person that he might seek redress in a court of law, (2) to organize an association, to seek to influence pending legislation dealing with race, (3) to hold membership or contribute money to organizations like the NAACP and the like, etc. This labyrinth of legislation is intended to be a means of stifling any organizations through which the Negro people have lawfully and peaceably sought to redress these wrongs. The registration of names of those holding membership and of those making donations are then a matter of public record so that private persons and organizations like the white citizens councils can subject the members and donors to reprisals. Just as bad is the fact that this legislation is directed toward making access to judicial remedies more difficult. Thus a people are oppressed * * *.

Not only has a labyrinth of legislation been passed (or is in process), but we have witnessed the creation of an administrative maze. The function of the elaborate and complex system of administering local functions is to avert compliance with Federal court decisions and Federal law concerning civil and constitutional rights. The maze is purposely made intricate so that the costs and time required to achieve redress of rights from the State or local agency can be prohibitive. The maze is also intended to obscure the lines of responsibility and to cloak State and local officers with the immunity of the State to be sued in the

Federal court without its own consent pursuant to article XI of the United States Constitution.

Intimidation, violence, and economic pressure are the instruments used by private persons and organizations to keep the Negro subordinated and to deprive him of the civil and constitutional rights essential to first-class citizenship. The intimidation, violence, and reprisals are, if not aided and abetted by administrative and elective officers, encouraged and tolerated. Law enforcement efforts when a racial issue is involved is lax and futile. Negro people are still subject to violence for "being sassy to a white person" and the perpetrators of the violence are only infrequently prosecuted or convicted. The threat of economic losses and fear of safety of person and property is intended to motivate most Negroes to forego the exercise of the rights and privileges of citizenship. This dogma is called: voluntary segregation. The chance that "voluntary segregation" will be adopted is slight. The southern Negro suffers so acutely from the impositions and the barbarities, and deprivations inherent in segregation that he is determined to strive for equal treatment and equal protection under the law. Neither threat nor violence has yet made them compromise their pledge to attain these ideals.

There is a general tendency for witnesses against the civil rights bills now under consideration to take the position that the proposed legislation is directed against a section of the country. This is not so. As Federal law it will be enforced in the whole Federal jurisdiction and persons will seek relief under these statutes in the North, East, South, and West. No doubt the frequency of such cases will be more numerous in the South where the persons who support segregation are vocal and dominant. These extremists under the guise of States rights are willing to go to unreasonable extremes to maintain racial subordination. Most astonishing is the Sampsonian complex of the legislatures. With malevolent spite, they are willing to abolish the services of the State to its people, white and Negro, if they are not allowed to unlawfully practice segregation. However, not all southern people feel obdurate and belligerent on this issue. Many southern white people are alarmed at the threats to wreak wrath upon the Negro if segregation is ended and deplore collapse of law and order. Many southerners, white and Negro, are appalled at the willingness of legislatures to enact laws and resolutions which attack constitutional government. Furthermore, there will no doubt be white citizens who will seek succor under these bills when they have been enacted, just as there are now southern white persons who seek redress in the Federal courts when their right to register and vote is denied.

All this must be borne in mind when we examine the need for Federal action in the field of civil rights. The American Council on Human Rights feels that the civil rights bill passed by an overwhelming bipartisan vote in the House of Representatives last year is a start toward the Federal Government assuming its responsibility for the protection of constitutional and civil rights.

1. We urge the adoption of the provision to establish a Commission on Civil Rights. We urge that the phrase "by reason of race or color" be made to read, "by reason of, and incident to race, color, and nationality origin" so that the scope of the Commission's work will be of benefit to Puerto Rican and Mexican-Americans as well as the Negro.

2. We support the proposal to create a special Civil Rights Division in the Department of Justice. The mandate of the Congress to the Department of Justice is an affirmation of the Federal Government's responsibility for protecting the individual citizen's constitutional rights.

3. We most vigorously importune this committee to authorize the Department of Justice to take civil action to prevent unconstitutional deprivation of the right to vote in elections for Federal officers.

In the final analysis, perhaps the most precious right of all in a democracy is the right to vote. With such a right adequately assured, all other rights are potentially assured. Nothing is more basic to democratic society than the power vested in the people to choose the men and women who will make the laws and operate the government for the people.

Our Federal Constitution recognizes this basic right to vote in numerous ways. Article I of the Constitution gives Congress the power and duty to pass the laws necessary to protect elections for Federal office. The 15th amendment to the Constitution provides that the right of citizens of the United States to vote in State and local elections shall not be denied or abridged by the United States, or by any State on account of race, color, or previous condition of servitude. The 14th amendment, moreover, prohibits any State from making or enforcing laws which abridge the privileges and immunities of citizens of the United States and from denying them the equal protection of the law.

To carry out these purposes, the Congress years ago passed a voting statute which provides that all citizens shall be entitled and allowed to vote in all elections, State or Federal, without distinction based upon race or color. By this action, the Congress did intend to provide satisfactory protection for the right to vote.

The fact is, the right to vote has not been adequately protected. Negroes especially have been deprived of the right to vote in many parts of this country. For trying, some have been mercilessly beaten. Obviously, the present voting statutes have not been enough to guarantee this most precious right.

Analysis has shown two defects of the existing statutes:

1. They do not protect voters in Federal elections from unlawful interference with their voting rights by private persons; it applies only to those who act "under cover of law." Thus, only public officials, not individuals or private organizations, can be effectively prevented from unconstitutional interference in a person's right to vote.

2. They fail to lodge in the Department of Justice any authority to invoke civil remedies for the enforcement of voting rights. Most important, the Attorney General is not presently authorized to apply to the courts for preventive relief in voting cases.

In order that the intent of the Constitution and present statutes can be properly carried out, the Congress should amend section 1971 of title 42, United States Code, to permit (1) action against anyone, whether acting under cover of law or not; (2) civil suits by the Attorney General in right-to-vote cases; and (3) permit first resort to Federal courts where constitutional rights are at stake. (4) ACHR urges the adoption of the proposal to authorize the Attorney General to seek civil remedies in the civil courts for enforcement of existing civil-rights statutes. The labyrinth of legislation and the administrative maze which were described impose formidable handicaps on the citizens who seeks to redress their rights in the courts. Criminal statutes are presently available but they have the disadvantage of being primitive. Furthermore, criminal statutes can only be invoked after a right has been infringed, but the proposal to enable the courts to give civil relief means that an impending infringement can be prevented * * * and that right quickly without extensive litigation.

JACKSONVILLE, FLA., *February 25, 1957.*

Congressman EMANUEL CELLER,
Washington, D. C.:

I am white, belong to no political party, no fraternal order, represent no one but myself, but feel that the southern Negro, who is in a vast majority and not wanting integration or civil-rights legislation, is the forgotten man. We will need time to prove this, one way or the other.

I consider civil-rights legislation utterly foolish and a disgrace to a civilized nation. If the citizens of a State cannot mete out justice to its own people, a Federal judge is less qualified at his best.

If I am considered worthy to testify before your most honorable committees, I come in behalf of the southern Negro who has made more progress in the last 20 years than the white man has ever made in 50 years. Don't retard him.

RAYMOND E. B. KETCHUM.

CHRIST CONGREGATIONAL CHURCH,
Takoma Park, Md., February 25, 1957.

Hon. EMANUEL CELLER,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN CELLER: The present session of Congress has an opportunity to make a significant contribution in the field of civil rights and to help secure those rights for all our citizens regardless of race, color, or creed.

However, for such a program to be enacted, it is important that it be got moving early in the present session of Congress in order not to be sidetracked by obstructive or dilatory tactics of those who do not favor such legislation.

Our board is strongly of opinion that legislation passed at this session should include: (1) Creation of a bipartisan commission to investigate civil-rights violations and to make recommendations to eradicate discrimination; (2) creation of an effective Civil Rights Division in the Department of Justice; (3) enactment of additional legislation to guarantee voting rights to all citizens; and (4) amendment of existing authority to broaden the right of the Federal Government to obtain injunctive relief in civil-rights cases.

In our judgment a substantial majority of each House of Congress is in favor of legislation along the lines outlined above. The major problem is to obviate delay and to get such legislation to an early vote in both Houses. We urge that you use your influence to that end.

Very truly yours,

ROBERT W. BEASLEY, *Chairman, Board of Social Action.*

The CHAIRMAN. At this time the committee will stand adjourned until 2 p. m.

(Thereupon, at 12 noon, the committee, was adjourned, to reconvene at 2 p. m., the same day and place.)

AFTERNOON SESSION

The CHAIRMAN. Hearings will resume on the civil-rights bills. Our distinguished colleage, Mr. Hemphill, will introduce Mr. James A. Spruill, Jr., of Cheraw, S. C.

Mr. HEMPHILL. Mr. Chairman, it is my pleasure at this time to introduce as a witness before this subcommittee Mr. James A. Spruill. Mr. Spruill is a distinguished member of the education committee of the House of Representatives of the State of South Carolina, as well as a member of the ways and means committee, a former teacher at the law school, a Rhodes scholar, and a gentleman whose intimate knowledge of education and its requirements in South Carolina, I think, is unparalleled—he is a great gentleman and a great scholar.

The CHAIRMAN. Mr. Spruill, we are glad to have you.

STATEMENT OF JAMES A. SPRUILL, JR., OF CHERAW, S. C.

Mr. SPRUILL. Thank you, Mr. Chairman.

I want to express my appreciation for this opportunity to come and speak before you gentlemen. I appreciate your courtesy and your kindness in hearing us.

My friend has said I am interested in education, and I come here as one who has worked for the cause of public-school education in South Carolina—education for all of our children, for our white children and for our colored children.

I am vastly interested that our educational program in South Carolina should be speeded up, that we should be able to give our children better and better education.

I come here today to talk about two minorities. We are accustomed to think of our colored citizens in the United States as a minority, I think it is not unfair to say that our white southern citizens are a minority nationwide. We are two minorities residing together by the limits of geography, our past and our future are inexorably intertwined.

I hope we are going to make progress together as we have made progress in the past. I look as a southerner with real pride to the progress which both of our races have made in the century since the conclusion of our Civil War. Both races have come a very, very long way.

As one interested in education, I would say that universal education is only one generation old in South Carolina. We were an impoverished people after the Civil War. Our white children had far too little opportunity, and I regret that we didn't give our colored children more opportunity. I regret that we did not have the wherewithal to give all of our children more opportunity. And I say to you that it is really only within the last generation that we have begun the task of giving all of our children a respectable, a decent education.

As I say, we were an impoverished people. South Carolina is still third from the bottom in per capita income, although we are improving relative to our Nation at a fairly rapid rate. We have proportionately more children of school age than any State in the Union save one. With a low per capita income, with far more children than the average, we are facing up to the problem. We are giving all of our children increasingly more ample opportunity. It is still too little for all of them, but we are working to make it better, to make it more adequate.

There is a real problem when any two races dwell together, and I think that we in the South still feel the scars of our reconstruction period. I think that that bitterness which lasted so long in the South was far more a result of reconstruction than it was of our Civil War.

Fortunately, we have come beyond much of that bitterness. As you gentlemen know, lynching is a thing of the past in the South. We all rejoice that that is the case. It is a thing of the past in South Carolina not because of Federal legislation; it is a thing of the past because the people of the South, the people of South Carolina, demanded it.

As we face the future, I think we all realize that our people must have equal voting rights.

I might say that, as a member of the South Carolina General Assembly, I helped write our election law of 1950. I am proud of the fact that under that law all of our people have equal opportunity, and I think that it is being fairly administered.

Our school law of 1951 has given an impetus to education in South Carolina such as we had not seen in all the preceding historical past.

I live in a community where the races are of approximately equal number. We have about 3,000 schoolchildren. Since 1951 the State has built five new school buildings. The value of that new construction is far greater than the value of all construction in my community through the whole history of our State.

We are trying to give all our children equal opportunity. Their condition is being improved.

I can remember in my own youth the economic condition of our people, white and colored—it has been infinitely improved—we are working to improve it more.

I was campaigning at the time of the Supreme Court decision in 1954, and I was taken back on my heels not so much by the decision as by the reaction to it. Everywhere I heard people say, "We will take our children out of the schools; we will close the schools."

I was 1 of 7 candidates for 2 seats, and I was the only one who spoke out on this subject of education. I made the statement that I did not know what the answer was to the problem, but that I was sure the answer was more education and not less.

I think that the situation has grown more tense since then. In those days, in the summer of 1954, you heard people talking about how integration might be best effected. I cannot tell what the government of South Carolina may do, nobody can tell you that, but I can tell you that the temper of the people is such that I think that our education system is in peril.

I can also tell you, Mr. Chairman and gentlemen of the committee, that I am vastly concerned that all of our children of both races should have ever-better opportunities. You might say, many might say, that we are concerned here with prejudice and bigotry. I do not think so, but be that as it may, the sentiment of a people is a very real factor. Their opinions may be ill founded, according to your thought and according to my thought, but they are no less real.

If I may hark back far into history, I would like to mention something which is certainly beyond the controversy of this day. I like to read the first book of Maccabees. It tells one of the most glorious stories of man's struggle for what he thinks is right that I have ever seen anywhere.

You will remember that it was precipitated because an Emperor, a King of Syria, thought that he would accord to the Jewish people the boon of the Greek civilization, of Greek culture, and the thing that precipitated the Maccabean wars, the so-called abomination or abominations, was the sacrifice of swine in the temple at Jerusalem.

If the King had realized the efficacy of commissions, he probably would have set up a commission to study dietary law. But had there been a dozen commissions, the Jewish people, steeped in the religious tradition coming down from the time of Moses, would have risen, I believe.

They did rise, and it is a glorious story of the struggle of people for human liberty. We know that they triumphed. Perhaps they had adequate cause, perhaps they did not, but the important thing is that it was a simple matter which provoked them, and provoked they were more powerful than the King of Syria and his armies.

I remember years ago that I was very much struck by a passage from Tacitus. I think it is the best description of the subject peoples

under the Roman Government. Tacitus gives us the speech of the British chieftan as he condemns the Roman rule. He says:

> And where they make a solitude, they call it peace.

Gentlemen, liberty—and I am as interested in human liberty as anybody—but liberty does not grow or flourish in a solitude based on force.

I am interested in the human rights of both of our people. As I say, our people's lives are bound together. I am interested in that, and I ask as a southerner, and I believe you are interested in human liberty, that this committee and that this Congress do nothing to make it more difficult for the two peoples living in the South to live together, to grow together, and to continue to develop together because it is difficult to foster human rights except in an atmosphere of mutual confidence and mutual trust.

I say to you that that mutual confidence and mutual trust has been increasing, that it has been increasing through several generations, as a product of what I would say are the right-thinking people of both races.

I thank you, gentlemen.

The CHAIRMAN. Thank you very much, sir. We appreciate your taking time with the group here and giving us your views on this subject.

Mr. SPRUILL. Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Hemphill, I believe you have another witness.

Mr. HEMPHILL. Yes, I do.

The CHAIRMAN. And that is introducing the chairman of the house judiciary committee of the House of Representatives of the State of South Carolina, Mr. Robert E. McNair.

Mr. HEMPHILL. I do not think I need to add much to that, but I might say, Mr. Chairman and members of the committee, Mr. McNair is chairman of the house judiciary committee, and has distinguished himself as a lawyer and as a presiding officer. He and Mr. Spruill, who preceded him, represent the government of the State of South Carolina, and I am sure our gratitude is extended to the subcommittee for allowing them to speak.

Mr. KEATING. Mr. McNair, I certainly welcome you. However, I wondered if you brought with you the ranking minority members.

STATEMENT OF HON. ROBERT E. McNAIR, CHAIRMAN, HOUSE JUDICIARY COMMITTEE, HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH CAROLINA

Mr. MCNAIR. Mr. Keating, I believe, sir, that I represent also the ranking minority on this subject. We are a house united.

Mr. KEATING. I see. Thank you.

Mr. MCNAIR. Mr. Chairman and members of the subcommittee, it is certainly a pleasure and an honor for me to have this opportunity of appearing before you and of speaking to you this afternoon on this particular subject.

I am sure that you heard from two very distinguished South Carolinians a short time ago, and I know you were interested and I hope you were enlightened on the subject.

Today none of us are the lawyer or even profess to be as great as Mr. Grayden nor as entertaining, but we hope to present to you some of the views we have on this particular matter.

You have taken time out to hear us; we appreciate it. We are here to represent the people of South Carolina on a subject and a matter that is to them the most important thing that faces us today.

When we were asked to come by Governor Timmerman, we were told that perhaps we were coming to appear before a group that had already made up its mind individually or individual mind, on this particular subject; but to me, I did not believe that.

Frankly, from my legislative experience, and serving as chairman of the judiciary committee of the House of Representatives of South Carolina, I know that all our representatives are people who are broad-minded, openminded men and women.

Certainly this committee has not concluded already that it is going to vote favorably or unfavorably on this piece of legislation. We have confidence in you as the representatives of your people, and we have come to try to present some facts that we think should be mentioned to you. Perhaps it is all repetition.

As I listened this morning to Senator Thurmond and to the attorney general from Virginia, it left very little for us to say that would not be repetition. Senator Thurmond covered it thoroughly. Then the attorney general from Virginia made as fine a legal presentation as I have ever heard.

But what I would like to talk about today is the right of the individual. We have heard a great deal about States rights, the rights of local governments, but when I read this legislation I think that we perhaps have even gone beyond tearing down the barrier of the States and the local governments. We have gone further than that, and it becomes a fight to protect the individual rights of our people—rights that they have lived with, have had for all these years, rights that have been given to them by the Constitution of the United States.

Now I want to say this about the people of South Carolina first:

We are a loyal, law-abiding, God-fearing, red-blooded, American people, just as you from any other State of the Union. We are not lawless, race-prejudiced people as some who have appeared before the committee would brand us as being. I do not think that anybody can deny or impeach or attack the loyalty of the people of South Carolina and of the South as a whole.

The CHAIRMAN. You do not have to go into that point. We have some very exemplary examples in your Representatives who are right here before us, and we have judged South Carolina by them.

We have a gentleman right up here, a member of the committee. We have no qualms on that subject.

Mr. MCNAIR. Thank you, sir, but we wanted you to know that we come as American people and that we come sometimes as a minority group which perhaps is misunderstood. And we believe that we, too, are entitled to have the rights that have long been ours, the rights that the American people have lived with and protected.

When I began working and looking at this legislation, I began reading it, and one of the first things that I noticed in one of the bills was it started out by saying: "The Congress hereby finds," and then it goes further and proposes to set up a commission to investigate; then

it goes further and proposes to set up a congressional committee that is to investigate, and then it goes further and proposes to legislate, as the attorney general from Virginia said this morning.

That to me seems to be a great inconsistency. It is amazing to me that the Congress found nothing, and yet will say "The Congress hereby finds" thus and so to exist, and at the same time the Congress will set up a commission or a committee to investigate the matter and determine whether or not it does in fact exist, and then go forth and legislate.

So those are things which to us seem to be most inconsistent.

The CHAIRMAN. Maybe the commission would find that the conditions do not exist.

Mr. MCNAIR. Then, sir, that is our reason for being here today. We have no objection to an unbiased, unprejudiced full investigation in South Carolina. Certainly we would welcome it if a congressional committee wants to come down. We would not like to have any Commission that might be set up to meet in Washington and subpena people to appear here and investigate them, some who might volunteer to come; so we are interested in the fact that we believe that certainly it should be determined first whether or not the legislation is needed.

I have followed it in the newspapers, and I have read where considerable talk was had about the need of it. I noticed who appeared as proponents of the legislation, and it was interesting to note that none of those people whose rights supposedly have been denied them have appeared before the committee. It is people who claim to represent those people.

The CHAIRMAN. I think it might be well to understand that I took it upon myself to issue a ruling that there would be no need to have a long list of those in favor of the bill appear and so by arrangement some 40 organizations agreed to have their views presented by one individual. That saved a great deal of time. These 40 organizations presented their views to this committee through this one spokesman. Therefore, it would not be quite accurate to say that nobody, or very few, appeared who were in favor of the legislation.

Mr. MCNAIR. Mr. Chairman——

Mr. MILLER. May I have the floor here?

The CHAIRMAN. Yes, sir.

Mr. MILLER. I think what the gentleman was trying to say here, if I followed him correctly, was that there has not been a single individual who has appeared to testify directly himself that his rights or privileges had been taken away from him in any area of this whole rights field.

Is that not what your whole statement is?

Mr. MCNAIR. Yes.

Mr. MILLER. And also, in reading testimony of the prior hearings before this Congress on this question of civil rights, there never has been a single individual who appeared who has directly testified to the abrogation of civil rights to himself, but the statement has always been made by the head of an organization on behalf of the individual.

Mr. MCNAIR. That is my understanding.

Mr. KEATING. Obviously, if you got into that, you would be here until Christmas. You cannot possibly take up individual cases.

The CHAIRMAN. I want to take the responsibility for that. We discouraged that. We had a great many of letters and wires asking

to be heard, most of them in favor of the legislation, and I discouraged them because, as the gentleman from New York says, we would be here until doomsday if we heard them.

Mr. McNAIR. Perhaps you would, sir, but it is also something that we like to know, that the people of South Carolina of both races have during the past lived together as friends. I do not think that anybody can stand before this committee from the State of South Carolina and say that his civil rights have been violated or abridged without adequate and proper protection from the law-enforcement officers of our State, and I make that point, that nobody from South Carolina has appeared who has said that his individual rights have been violated—that is, his individual civil rights.

Mr. MILLER. Nor has anyone from any other State.

Mr. McNAIR. I assume that is correct, sir, because I found no evidence from what has transpired here or previously, sir. I think that, to me, that is an interesting point because those who have appeared representing organizations perhaps have come up with some alleged violations, but nobody has brought forth the real thing.

In South Carolina we are moving forward, as Mr. Spruill, who is one of the authorities in the educational field, has said. We have given to both races good school systems. We have given to them fine schools. We have equalized to the point of identity—identity of facilities almost. We have put the teachers on the same basis, and if the people of South Carolina, both races, want voluntary segregation, then to me that is their business, and they should be entitled to have it.

As we go into the legislation, after my observation as to the inconsistency of it, we go on into that thing of taking away from the individual the right of jury trial by setting up and giving a different division in the Attorney General's Department, giving them the authority to bring civil suits and civil injunctions.

I wonder perhaps if some of us who are trying to help 1 or 2 people or a few people are not overlooking the rights of the individuals themselves, and are penalizing and punishing a great majority of the people in order to accomplish this one so-called wanted result.

That is something that it seems that we must take into consideration—the ultimate result.

Mr. ROGERS. Could I interrupt you and get your train of thought?

Mr. McNAIR. Yes, sir.

The CHAIRMAN. Yes, Mr. Rogers.

Mr. ROGERS. I believe you are objecting to this provision which authorizes an injunction, are you not?

Mr. McNAIR. Yes, sir.

Mr. ROGERS. Of course, you are familiar with the Supreme Court decision of May 17, 1954?

Mr. McNAIR. Yes, sir; I am familiar with that.

Mr. ROGERS. Which, in effect, said that the respective Federal district courts should have the right to entertain and grant injunctions and bring about desegregation.

Under that setup, we know of some instances where temporary injunctions have been issued, and in one instance against a school board, the Federal court, under the direction of the Attorney-General, sent FBI people in and arrested the people who were not parties to the action.

Mr. McNair. That is right, sir.

Mr. Rogers. The question that I have asked of many witnesses is how shall we deal with that problem in the future.

If, under the so-called judge-made law, the Federal district court is authorized to issue the injunction, are not we doing just the same thing here that the Supreme Court has already authorized, or how would we meet that problem?

Mr. McNair. It is my opinion that when the court issued its injunction, it only applied to those persons who were parties to the action.

Mr. Rogers. Yes.

Mr McNair. And I suppose you refer to the matter in Tennessee where the court tried to go out and say that anybody who opposed enforcement of that decision by word or action was in contempt of court.

Mr. Rogers. Yes, that is trimming it to a fine point.

Mr. McNair. That is the most unusual, the most shocking, thing to me as a young lawyer, and certainly should be to the distinguished gentlemen of this committee, to say that you are going to hold everybody in contempt of court if he opens his mouth in opposition to a decree of the court.

That, sir, is against every principle of our system of government that I have ever believed in.

Mr. Rogers. That may all be true, and I agree with you, say, 100 percent that it is a departure; but the fact remains that it is a precedent and——

Mr. Keating. Would it not be fairer to say in those cases, and I do not know the facts, but that they are alleged to have done more than open their mouths in the way of violent interference with the carrying out of the decree of the court?

As I remember the case, or the circumstances, that was correct.

Mr. Rogers. Yes.

Mr. McNair. Still, sir, regardless if they did, under this proposed legislation you are going to deny to those people the right of jury trial.

Mr. Foley. Not in the case of criminal contempt, committed outside the presence of the court.

Mr. McNair. In this legislation?

Mr. Foley. Yes.

The Chairman. If it is criminal contempt, there will be a jury trial.

Mr. Foley. If it is outside the presence of the court.

Mr. McNair. If they are a party.

Mr. Foley. Whether they are a party or not.

Mr. McNair. If they are a party, they are entitled to a jury trial.

Mr. Foley. If it is criminal contempt outside the presence of the court.

Mr. McNair. I am very sorry, sir, but I do not find that in the legislation.

Mr. Foley. Under the rules and Criminal Code.

Mr. McNair. Sir, the rules of criminal procedure that we have operated under for a number of years under decisions of the Supreme Court. I hesitate to say, but only yesterday, we understand, the Court again made a decision that is almost hard to hold in line with previous decisions, and we know in the school segregation case that the Court upset——

The Chairman. You mean a football decision.

Mr. McNAIR. Yes, I was last night listening to Mr Marshall talking about discriminatory decisions of the Court, saying that football was made up a little bit different from baseball and it was different.

The CHAIRMAN. It is a bigger ball.

Mr. McNAIR. Maybe that is all. Maybe there were more votes on one side than on the other on this matter, too. But, be that as it may, I do not read into the legislation what the gentleman said.

Mr. FOLEY. It is found in title 18.

Mr. McNAIR. We are a little hesitant to rely on past decisions or past history, in view of the decisions of the Supreme Court.

Mr. FOLEY. However, it is statutory.

Mr. ASHMORE. May I just make a reply in response to what my good friend has said?

The CHAIRMAN. Yes, of course.

Mr. ASHMORE. This law makes it possible to circumvent the law, that, to my way of thinking, it is taking a criminal law and making a civil law out of it and, therefore, depriving the man of his right to trial by jury.

Mr. FOLEY. It depends on the nature of the contempt.

Mr. ASHMORE. If it is civil contempt, in most cases there is no jury trial; if it is criminal contempt, in most cases under Federal criminal procedures, under title 18, it is a contempt trial by jury.

Mr. FOLEY. The individual has a right to go in and get the same trial by jury.

Mr. McNAIR. If they have it now, why do they want that in here?

Mr. FOLEY. The only difference is the Attorney General is given the right to bring the action as well as the party aggrieved.

Mr. ASHMORE. In other words, they want to put it in the Attorney General's hands, so he does not have to say I will or I will not.

Mr. FOLEY. The Attorney General can, and sue for him.

Mr. ASHMORE. It upsets the whole concept of American jurisprudence.

Mr. KEATING. There is still unanimity in the South.

Mr. McNAIR. It gives the individual the right to come in in the name of the United States on any suspicion of any kind and prosecute in the name of the United States and bring civil actions against a citizen of the United States for alleged violations of someone's civil rights. That is a new venture.

Mr. ASHMORE. Mr. Chairman, I did not mean to interrupt.

The CHAIRMAN. Oh, no; that is perfectly all right.

Mr. McNAIR. One of the things that calls for is protection of the right of every citizen to register for voting and to vote.

I do not know anybody being denied the right to register to vote or a right to vote in South Carolina. To my knowledge, there has been no instance of that being reported to anybody in South Carolina. We have as low voting registration requirements perhaps as anybody.

Mr. KEATING. Do you have a literacy test of any nature?

Mr. McNAIR. The only thing that is required other than the residence requirements is that a person be able to read, not interpret, a section of the Constitution, or, in lieu of that, if they cannot do it, to own property valued at $300.

Mr. KEATING. Either read or own property?

Mr. McNAIR. Yes, Mr. Keating, either read or own property valued at $300.

Mr. KEATING. When they are brought in to read a section of the Constitution, is that section picked out by the election judge?

Mr. MCNAIR. I assume, sir, that it is, because it says read a section or own property valued at $300.

Mr. KEATING. Is it always the same section for every prospective voter?

Mr. MCNAIR. I cannot answer that, to be very frank, but I do know that there has been no instance brought to our attention of a person being refused the right to register for that reason.

We have Mr. Pope, who will follow me, representing the South Carolina Bar Association. He will cover very thoroughly the voting requirements and also our legislation covering the matters you propose to cover here. We have liberalized our requirements to vote to the standpoint that we almost have universal suffrage. Nobody is denied his right to register or vote.

There has not been a single instance brought to our attention where one has been.

In addition to that, as has already been so well covered by others about the poll tax, long ago we removed that as a requirement for the right to vote in South Carolina.

The lynching provision, to us, is absolutely shocking, that the Congress of the United States would continue to harp on lynching. That is all they do, because that just does not happen in the South any longer, and I think that everybody is aware of that. It is just an old story that continues to pop up year after year. Why, we do not know.

Certainly we should not be singled out any more about lynching when it does not exist, and I would like for that word and that continuous legislation about it to be forgotten and put aside, because we just do not have it any longer. It just does not exist.

I think Mr. Calliston told you when he appeared week before last that we no longer had any lynching in South Carolina, and when we did have them, they were prosecuted to the full extent of the law.

Mr. KEATING. There is a lot of negotiation going on all over the world. How would you feel about this legislation if we struck out the poll tax and the antilynching provisions?

Mr. MCNAIR. No, sir. Those are things which we do not think are even worth talking about any longer because it is not necessary to even discuss it or propose it.

Let me cover one other point that I would like to make, and that is that up until all of the so-called civil-rights legislation began to appear, so many of the agitators, so many of the social reformers, started making or naming themselves as the leaders of the people who were having their civil rights taken away from them and violated, we had no problems. We have not any race riots, we had not had any so-called lynching, we had not had any trouble in South Carolina.

Certainly we cannot say that about other sections of the United States. We have not had anything happen in South Carolina like has happened in Detroit recently. We assume that Michigan has adequate laws to take care of the situation that is going on there. We assume that the other States have them. We feel that we do. We feel that South Carolina is able to take care of its own problems, and we ask that you gentlemen study our statutes and decide for yourselves if you do not think that we have adequate legislation to protect

the rights of the individuals and the citizens of the State of South Carolina.

Perhaps we differ. We have different opinions on different matters, but the people of our State, those of us who appear always say there is room for disagreement. We can disagree without being too disagreeable with one another. But I would ask you to seriously go into the matter before you start by saying, "The Congress finds"; determine whether or not it does exist.

Frankly, the people of South Carolina, if they are a group that is included in the legislation, if it is aimed at them, the people of South Carolina certainly resent the Congress of the United States passing legislation which says "The Congress hereby finds" that the civil rights of some person are being denied, abridged, and threatened, and that is destructive to the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations.

If we are a group of people that are being branded as a bunch of lawless people, then we certainly are entitled to have the cold facts of where we are guilty laid before us, and I think we are entitled to that. That is the reason that in the beginning I made the observation that not a single factual case that I know of has been presented to this committee where the rights of anybody in South Carolina have been abridged, or where the civil rights have been violated, and where the law enforcement officers and the officials of our State did not come in and do everything within their power to cure it.

We have no evidence of violations; but if we do have, then I assure you we are ready, we are willing, and we are able to take care of them.

Mr. KEATING. I might say to you that we had shocking violations of such a nature in the State of Louisiana, and then we had the attorney general for the State of Louisiana come before us and give us what has developed into rather misleading information about the situation. We now have evidence that the attorney general left unsaid before this committee a good many things that might have been said, but later submitted shocking evidence in answer to questions from members of this committee about the situation down there.

That does not apply to South Carolina, but the record is not so devoid of instances where there have been deprivations of civil rights.

Mr. MCNAIR. Mr. Keating, sir, that perhaps is true. I think that any of us, if we were to go into any State in the United States, if you will pardon me, even to your own State, we could find evidences, sir, of isolated cases; but if we are going to legislate national legislation to cover this and to take care of every isolated thing that happened in this, we are going to have so many laws on the books that none of us will ever be able to move an inch.

Mr. KEATING. You do not have to apologize, Mr. McNair, about pointing out my State. If there have been deprivations of civil rights in my State, I am just an anxious to have them cleared up—more anxious in fact—as I am for any other State in the Union. I think the Federal Government should step in to protect rights guaranteed under the Constitution and laws of the United States.

We are not talking about local police matters or matters having to do solely with States' rights. We are dealing here with rights protected by the Constitution of the United States, and if voters have

been discriminated against in my State, then the Federal Government has a duty to step in and take over.

Mr. McNair. We are capable of taking care of our own problems, and we would hope that the State of New York can take care of its problems without inviting the Congress to come in and handle it.

Mr. Keating. I hope so.

Mr. McNair. We are firm believers in the rights of States, as you know. If we have violations of civil rights, I would like to know about it. If the people of South Carolina have not violated them, and they have in someone else's State, I think that State is perfectly able to take care of the situation itself, because we are going pretty far afield when we get into legislation that not only breaks down the barriers of State governments, but invades fields that in our opinion were reserved to the States under the Constitution, and also goes so far as to take away the individual rights of people that they have had for so long, just because of one or two isolated alleged cases of a violation.

And I use the word "alleged" because my understanding is that most of them are alleged. They have never been proven and established as a fact.

Mr. Keating. The number from Louisiana was 3,000. That is not any isolated case. And then the State attorney general told us it was limited to one county. We now find from the Attorney General of the United States that complaints have been made in several counties.

Mr. McNair. We also go further and we say that to continue to rehash this particular problem has brought some problems to the people in South Carolina that we have never had before.

There is beginning to grow up a feeling of unrest, a feeling of ill will, a feeling of distrust. We have lived together, and we have gotten along well together.

I certainly know of no instances where we have done anyone any great injustices; if you are aware of it, then we would want to know. We feel that to continue to bring this into a great issue, to build it up, is causing more harm than any good that could come from it.

Certainly now is the time when our people need to be drawn together rather than spread apart. We need things that will draw us together in a spirit of harmony and cooperation in view of the present international conditions. It seems to us that those conditions are paramount to whatever might exist today in this country.

We certainly would urge this committee to first make a real investigation.

Do not let some commission, which I notice volunteers can work for without pay but get some pay, and people who volunteer their services sometimes do not give the best information and advice, but if you are going to investigate, let a committee of the Congress investigate. We would love to have you come to South Carolina. We would welcome you as our guests to make an honest, sincere investigation; but let us not pass legislation and find matters of fact later. Let us not condemn the people first and then investigate them. That is what this legislation does. It condemns us and says we are a people who have done thus and so, and the Congress finds thus and so, and so on and so forth. Then you are going to investigate and also pass legislation at the same time.

I have also one other point, and that is, we all know that you cannot legislate the social habits of a people.

People are going to segregate themselves socially, regardless of their race, creed, or color, even among the various races, religions, and colors.

When we start telling people that you cannot choose your own associates socially, we are getting pretty far afield.

In addition to that, the legislation, if it goes along with the injunctive relief, we think this would deny to anyone the right to say what he would like to say, even, I understand, that perhaps the refusal of the right to join a church might be a violation of somebody's civil right.

Certainly we are not going to hale before the courts preachers, members of a board of deacons, and people who honestly and sincerely wish to say how they feel on an issue such as this.

We appreciate very much the opportunity to be heard, and I appreciate the privilege of appearing before this committee, and I would like very much to have the opportunity of welcoming any of you gentlemen down to Columbia, S. C., before our State legislature or the judiciary committee of our body, sir.

Thank you.

The CHAIRMAN. We appreciate that. We find your statement most vigorous and refreshing and sincere.

Mr. MILLER. May I interfere to ask him a question?

The CHAIRMAN. Certainly, Mr. Miller.

Mr. MILLER. Mr. McNair, first I would like to preface my questions with a statement or view that I believe just as fully, I think, in the proposition of States rights as you do.

Do you have in front of you H. R. 1151?

Mr. MCNAIR. Yes, sir.

Mr. MILLER. In that bill you will find that there is made no finding by the Congress; is that not correct?

Mr. MCNAIR. Yes, sir.

Mr. MILLER. Or the commission of them if there is shown any violation of the civil-rights law?

Mr. MCNAIR. Yes.

Mr. MILLER. So that all of your testimony with regard to that would not, of course, be relevant to 1151, nor would 1151 be objectionable to you upon that basis?

Mr. MCNAIR. I do not find anything in here.

Mr. MILLER. You have it in front of you, do you not?

Mr. MCNAIR. Yes.

Mr. MILLER. Find it.

Mr. MCNAIR. I do not see the language "Congress finds it."

Mr. MILLER. So that that objection would be eliminated if that language was not in H. R. 1151, and that was enacted?

Mr. MCNAIR. Yes; that was used in pointing out the inconsistencies.

Mr. MILLER. Yes; but that would eliminate that from your objections; would it not?

Mr. MCNAIR. Let us say it would eliminate that inconsistency.

Mr. MILLER. You say you had no objection to a congressional investigation of these matters. That was originally your statement?

Mr. MCNAIR. I said, sir, that we perhaps did not have the right to object to a committee of the Congress of the United States if they

wanted to investigate. Perhaps they might do that, sir, and if there is a really unbiased investigation, sir, we feel sure——

Mr. MILLER. I thought you said in your original statement that you would welcome such an investigation.

Mr. MCNAIR. I said from a committee of Congress if they wanted to investigate us.

Mr. MILLER. In this bill, 1151, instead of the investigation being by a committee of the Congress, it would be a commission appointed by the President.

Mr. MCNAIR. Yes, sir.

Mr. MILLER. A commission in which not more than three members could be from the same political party.

Do you feel that such a commission would perhaps be more biased or prejudiced than a committee of the Congress of the United States?

Mr. MCNAIR. I must say that our study of this was rather limited to what some others may have had because our legislature is now in session, and we have had no real opportunity to go through it word by word and letter by letter. We could probably find more objections.

Mr. MILLER. You say that is the sole point.

In other words, 1151, if that is the bill which would be passed now—it was substantially the bill which was passed by the House of Representatives last year, and all indications are that if any legislation is enacted this year, it will be a Keating bill, the administration bill. That is the whole point of your coming here to testify, and it is the whole point of my questioning on that.

When you get down to the specific instances, I have some misgivings about this, and I had those misgivings last year. I spoke against the bill on the floor of the House, and I voted against it. I still have, as I said a moment ago, misgivings about it. But, on the other hand, I do believe in the equality of all men and the basic civil rights that I think you said you did.

I am trying to get down to somewhere where I think you and I can reach an area of agreement, and I am saying, since you find nothing about "Congress will find," I would like to have your opinion. I am not trying to trap you. I want your honest opinion. I am stating to you now that this bill provides that a commission shall be appointed by the President and that the President's appointees shall be subject to the confirmation of the Senate and they shall be members of both political parties.

I am asking you if you think that that commission would be more biased or would more likely be biased or prejudiced than a committee of the Congress, the members of which come from various sections of the country and are subjected to political pressures within their respective areas.

I want to know why you think that such a commission—and committees of Congress, or almost all of them, are not evenly balanced; that is, between political parties, nor is the chairman of the committee accidentally the chairman, but is the ranking member of the majority party, so that it might be considered perhaps to be more political in complexion than such a commission appointed by the President.

I want you to answer me as to why you feel that such a commission would be more biased than a committee of Congress if such a study should be made, as you said.

Mr. McNAIR. I did not say it should be made. I said if there is any indication and you want to get the facts, the best way to get them is to actually investigate and see if conditions are as they are alleged to be.

Mr. MILLER. That is the purpose of the first section of the Keating bill.

Mr. McNAIR. The thing that disturbs me about the commission is that we do not know who would be on it. I do not know the political pressures that would be brought to bear on them.

Mr. MILLER. Do you think it would be more than the political pressure on Congress?

Mr. McNAIR. I assume that there is an awful lot of political pressure on the Congress already from reading these bills, because I think this is very far reaching.

Mr. MILLER. I think you and I agree on that very point, and I think, before you get through, you and I are going to agree on a lot of things.

Mr. KEATING. Except that I would say, from you and the others who have testified before, that there is a great deal of political pressure put on you gentlemen.

Mr. McNAIR. I may say, Mr. Keating, that the population ratio in the county from which I come is about 70 percent Negro to 30 percent white. The ratio in our schools is about 2½ to 1. We have no trouble. The colored people are happy, they have as fine or finer schools than we do.

That is the way they want it. We have not had a single instance of where any one of them has ever said, "I want to go to this school with this," or vice versa.

Mr. KEATING. The point I am getting at is that may be true, but I have heard time and time again about the political pressures which must have given rise to these bills.

It so happens—and I can speak for myself—I favored the protection of civil rights long before I was ever in political or public life whatever, and, as to political pressures, I think the figures run 1.5 percent of the voters in my district who are Negroes.

There is no political pressure on me whatever to be the author of this bill.

Mr. McNAIR. Yes, sir.

Mr. KEATING. Many of the authors are actuated by a sincere belief in the principles which those bills accentuate.

Time and time again it has been said here they are the product of political pressure. All I am saying—and perhaps some of them are—but time and time again it has been said that they are the result of political pressure, and what I am saying is that it is perfectly clear to me that from many of the witnesses who have appeared here in opposition to the bills that the political pressure must have been terrific or they would not have been here.

Mr. MILLER. May we get back on my point, sir? Could I be permitted to go on with my questioning?

The CHAIRMAN. Yes.

Mr. McNAIR. If I might answer Mr. Miller's question, I think there are several other objections. It delegates a lot of authority.

Mr. MILLER. I want the answer now to my point.

Mr. McNAIR. One thing it says is:

The Commission shall investigate the allegations that certain citizens are being deprived——

Mr. MILLER. Mr. McNair, could we answer one thing at a time? We are going to cover those sections later.

I am asking you now whether you feel that such a Commission would be subject to more political pressures or would it be more likely to be more biased than a committee of Congress?

Mr. MCNAIR. I cannot answer that.

Mr. MILLER. Just give us your opinion.

Mr. MCNAIR. I think there would be more pressure.

Mr. MILLER. You think there would be?

Mr. MCNAIR. Yes, sir; I think there would be more pressure.

Mr. MILLER. Now, you mentioned in your statement that you found objectionable the fact that this Commission could hire or could retain or secure the services of volunteers who would be paid per diem expense allowances but no salary, and you objected to that on the grounds that, there being emotion very heavily on both sides of this issue, it would be hard to find volunteers who would not be already opinionated in this field.

Mr. MCNAIR. That is correct.

Mr. MILLER. And I agree with you on that, and that is one of the reasons I spoke against this bill last year.

If that section were eliminated and we just had the appointment of the members of the Commisison and they were provided with a budget, and under that they could hire the people that they needed, then would you object to the bill?

Mr. MCNAIR. You still have this Commission that is subjected to terrific political pressure. The appointment of it, there would be considerable pressure as to who was going to serve on it, and this pressure on the Commission itself would be terrific.

But the same groups that you spoke about a moment ago, they would be volunteering information and services which would be exerting a terrific pressure.

Mr. MILLER. In am talking about eliminating that. This is an emotional question. You will agree with me that it could not be investigated by anyone without some emotion; would you not?

Mr. MCNAIR. I do not think it can. You are right.

Mr. MILLER. You did not mean that when you said you thought it could be investigated by a committee of the Congress?

Mr. MCNAIR. I do not think it can be investigated because I do not think you can get either a committee of Congress or the Congress can get a Commission or any other group which will be completely free of bias and prejudice in this matter.

Mr. MILLER. Then you do not mean what you said in the beginning of your statement; do you?

Mr. MCNAIR. Not unless we get an investigation that is entirely free of prejudice and bias.

Mr. HOLTZMAN. Would you say that your position is as open-minded as you exhorted this committee to be at the opening of your statement?

Mr. MCNAIR. Sir I feel that I know the problem that exists in South Carolina better than this committee perhaps, so that would determine the answer to your question on openness of the minds.

I am thoroughly familiar with the situation there, and perhaps I could say very sincerely mine is based on fact. We do not have any facts where anybody's rights have been violated in South Carolina.

Mr. MILLER. Going beyond the investigation phase, then we get to section 3; will you read that?

Mr. MCNAIR. Actually, there is no need for that. There is sufficient legislation on the books already in regard to that question.

Mr. MILLER. I am prone to agree with you on that.

Mr. MCNAIR. Yes, sir.

Mr. MILLER. But supposing we get down to part 4, which relates to the right to vote.

Mr. MCNAIR. All right.

Mr. MILLER. You do not disagree, do you, with the basic proposition that I, coming from New York, or anyone coming from Pennsylvania, perhaps, has a vested interest in the right of every single individual in South Carolina, or any other State, in their right to vote freely in an election for a President who will also be my President, or a Member of Congress of the United States with whom I would serve?

Mr. MCNAIR. Yes, sir.

Mr. MILLER. You claim that in the State of South Carolina there is no violation of the franchise to vote, and they all can vote freely; is that correct?

Mr. MCNAIR. Yes, sir.

Mr. MILLER. However, you do not hold yourself out as an authority, do you, that that situation prevails in every other State of the United States as it does in the State of South Carolina?

Mr. MCNAIR. I am not as aware of the conditions in others States as I am in South Carolina.

Mr. MILLER. Supposing that you were a Member of the Congress of the United States and that there were credible evidence to the effect that there were violations in various Southern States of the right to vote of some of the citizens of those States.

Since the enactment of special legislation as this bill, if this were enacted to take care of a situation in other States, since you do not have those conditions in South Carolina, then you would have no objection to the passage of such legislation in order to cure such evils as exist in regard now to such legislation; would you?

Mr. MCNAIR. I think, Mr. Miller, that the attorney general from the State of Virginia made a very good point about the Federal Government invading a particular field. Voter requirements and voter qualifications have long been left with the States.

Mr. MILLER. And this legislation, as I understand it, Mr. McNair, makes no attempt to circumvent the rules and regulations as far as the States are concerned. You may still have your poll tax, as far as this legislation is concerned; you may still have your residency requirements, as far as this legislation is concerned; you may still make them read a section of the Constitution, any reasonable literacy test, as far as this legislation is concerned.

So this is a law which gives the Attorney General a right to intervene when there is an attempt to restrain a person from his right to vote because of his race, color, or creed.

If we struck that out, if we eliminated the barratry provision and made it on consent of the person where the Attorney General then proceeded in injunction proceedings, and related it only to the right of voting, which you say would not affect you in South Carolina, then I take it from your original statement, you were sincere in all the

things you said at the beginning, that you would not have too much objection to such a piece of legislation; frankly, I spoke against the piece of legislation and then voted against it and probably would do it now if it were in the same form, but believing in civil rights as I do, if I could take it as a lawyer and vote for it and believe in it, I would probably vote for it.

I want to know whether you would or not.

Mr. McNair. Mr. Miller, I do not know the provisions of the various State laws dealing with this particular problem, but I believe that most of the States have adequate laws covering this subject.

Mr. Miller. It is not a question of the existence of the laws, Mr. McNair. It is a question of how you use them.

Supposing someone arbitrarily administering the law was administering the literacy test, and he asked the person who was the 4th President or who was the 6th Vice President, that would not be reasonable, and would not be a fair administration of an existing statute. That is what we are trying to cure in the legislation.

Mr. Holtzman. Would the gentleman yield at that point?

Mr. Miller. Yes.

Mr. Holtzman. The main point which the gentleman wants to know is, as Governor Coleman of Mississippi testified, that 1 percent of the Negroes entitled to vote in Mississippi did vote in the last election. They certainly have adequate laws, too.

Somehow or other they are not being enforced. Only 1 percent of those Negroes entitled to vote in the State of Mississippi actually did vote.

Mr. McNair. There is one disturbing thing about that.

You are putting an awful lot of power, you are giving an awful lot of power to the Attorney General's office; an awful lot of power, and you are perhaps permitting pressure groups to come in with alleged violations and giving the Attorney General's office the right maybe to harass, to go in and influence elections on the eve of campaigns, alleging that one group or another group is denying a group a right to vote, coercing it.

It seems to me it is placing an awful lot of power in that fellow's hands or in that office, so that they would have the authority and the power, if they wanted to use it, to go in and actually perhaps influence an election for 1 person or 1 party or 1 group or another.

The centralization of power is still something that we are very much afraid of. We think, and I was not aware of all that Mr. Miller has had to say was going on, but we assumed that those people there will certainly handle that situation.

I do not know whether it is as far reaching and as bad as it is alleged to be, but whether or not it is necessary to give to the Attorney General's office this power, this unlimited power, to step in and proceed on any alleged violation, then we get back to the pressure groups, the passion that is in this thing, and there we know that there would be some who would say not that it has happened, but we think it is going to happen; how about stepping in?

There is an awful lot of power that could be wielded. We do not know how it would be used, but it is giving to the Attorney General an awful lot of additional powers to step into the various States and say that somebody is intimidating, or coercing, or interfering, or

going to interfere with somebody's right to vote, with the free exercise of his rights, and it could go so very far.

It could go so far, as I said earlier, influencing an election perhaps, and it seems to me it is an awful lot of power to be given to the Attorney General's office, sir.

The CHAIRMAN. Thank you very much, Mr. McNair.

Before we hear Mr. Van Dorn and Mr. Pope, from South Carolina, we will hear Hon. Bruce Alger, and I understand that you wish to make a short statement on the subject.

STATEMENT OF HON. BRUCE ALGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. ALGER. Mr. Chairman, I am Bruce Alger, Fifth District of Texas.

I certainly appreciate the courtesy you extend me today in hearing me, and I thank my colleague——

The CHAIRMAN. I just want you to know that we have been at this since 10 o'clock this morning, and we have been going for many days. The briefer you make it the better we will like it.

Mr. ALGER. I assure you I will be very brief. I have heard that before, too.

I come only because, Mr. Chairman, I felt that my silence would be misconstrued.

I represent one of the largest districts in the United States, 827,000 people. Much of that is a metropolitan area, approximately 520,000 being in the city of Dallas.

The Fifth District has no civil-rights problem. I have worked in the YMCA ever since I was a boy. I have been in numerous fund-raising drives with the Negro laymen and ministers of the churches, the leaders of our community, and I simply make the statement to you and to this committee that we have no civil-rights problem.

We have fine schools and we have fine relationships. As a small-business man I was privileged to have Negroes in my employ. We just did not have problems.

The problems are finally becoming manifest through the efforts of the members of the NAACP, who seek to incite race hatred and discontent, which did not exist, as they so claim.

The CHAIRMAN. There is an injunction in effect against the operation of that organization, is there not?

Mr. ALGER. There have been over some cases in our State, but not in my district. I speak of my own district. I am going to limit myself to what I know best, to Dallas and my area, and I will not take a lot of your time.

I studied the bill last year, and I can almost quote it page for page. I did my homework. This year I have not studied it that much, however, I have become rather confused in the charges and countercharges as to just what civil rights are in the light of the proposed legislation.

At one time before the debate last year I think I understood. Now I think we might very well call this bill a civil rights violation bill. When we see a need, we as Americans, idealistically want to jump right in at the Federal level to cure those needs, most unrealistically, and I think, like the eager pill peddler, we may propose remedies that are worse than the pain.

In any event, I do not believe that we can legislate these social relations, even though I might be with you in agreeing that there are situations in which human beings make mistakes in dealing with each other. But I do believe that, if it were not for the NAACP, we would not have any friction at all. We do not have friction in our schools or on our buses or in our streets. Now if it is a matter of politics that's another matter—I am a relative newcomer to the Congress, and I know you gentlemen know much more about it than I do; however, I was on the floor last year during the civil rights debate, and I heard every word of it. I heard good-natured political jollying on both sides of the aisle, on the floor and in the cloakroom. There were statements made about how one group was going to put another group in a bad position politically, and I direct this to both political parties. If this is a political bill to any degree, then to that same degree I think it will be an incorrect solution.

Further I believe in States rights. You always hear that just like you always hear "brevity," but I tell you gentlemen that I have an honest-to-goodness States rights voting record. I have crossed the aisle in my voting various times when I thought the principle was right.

I believe in going around our State courts to the Federal district court is no proper solution. Further I am concerned about the expansion of the Federal jurisdiction and bureaucracy—how many new employees, how many new attorneys, and what will it cost, and who will pay for it.

That concludes my statement, Mr. Chairman, but I would like to include in the record a digest of my remarks last year if I may do so.

The CHAIRMAN. You may.

(The statement referred to follows:)

EXCERPT FROM SPEECH OF BRUCE ALGER, CONGRESSIONAL RECORD, JULY 17, 1956, CIVIL RIGHTS VIOLATION BILL

Mr. Chairman, the so-called civil rights bill should be renamed the "civil rights violation" bill. Far more rights of citizens in a free country are jeopardized than those the bill seeks to protect. In fact, all civil rights of American citizens are herein threatened. This is not a racial matter as some would hold. This is simply a political bid for votes, is it not? Our God-given ability to reason intelligently to arrive at a right solution has been replaced in some instances by a gleeful, malicious, or at the least a careless attitude, respectively, by some Members of this great body. It would be careless in the extreme for Members not to study carefully the wording of this bill.

All of us to a man are for civil rights. We are also against sin! The question raised by this bill is whether in an alleged protection of civil rights we now in one swoop replace constitutional rights by a bad bill. The Commission called for in section 1 of the bill presumes almost God-like wisdom and character of the six Members We substitute here for our traditional "government by law," a "government by men." The Commission will investigate allegations which could be irresponsibly made by nameless people. "Unwarranted economic pressures" is an undefined phrase confusing even to us who are called upon to pass this law. There is no limit to the Commission's investigations. Conceivably, all life in these United States could be expected to halt to await the pleasure of the Commission The subpena power will place at naught the civil rights of those accused. Their own business or personal affairs would be suspended at their own expense, while they appear at the demand of the Commission. What has happened to their civil rights?

The Commission "may accept and utilize services of voluntary and uncompensated personnel," which is a loose, careless, and unthinkable personnel arrangement for matters treating of our civil liberties. Should any citizen refuse to obey a subpena of this Commission, he could, in effect, be taken to court and jailed without a jury. Is this civil liberty?

The bill authorizes the appropriation of money, "so much as may be necessary," and then permits the employment of additional personnel ad infinitum, an expansion of the Federal bureaucracy without limit according to the wording of this bill.

* * * Here government by men, not law. Many of us know, forgetting the harm by intention that this bill would permit, that "to err is human" and the frailties of human beings, the Attorney General being one, could lead to unlimited mischief and damage to civil liberties.

It was stated in debate last year an estimate of one proponent that this bill covers religion but not the right-to-work laws. If it does cover religion, then one of the last holdouts to Federal control will be invaded and we will have lost also our religious freedom. * * * This bill proclaims that State law is not to be exhausted but bypassed. A more flagrant disregard for States rights cannot be imagined as I see it. Again we find that the United States Federal Government, through the Attorney General, now will prosecute cases free of charge for individuals, which means we thus enable any citizen to accuse and prosecute any other citizen without cost to the accuser, yet with heavy cost both in time and money to the innocent accused. Is this preservation of civil liberties?

Now, how about our right to vote, a sacred right of American citizens. First of all, are any of us so blind as not to see that when the respective States yield up their constitutional rights over election laws to the Federal Government they have at that moment lost freedom for the individual citizen under the constitutional checks and balances which protect them from centralized government, even dictatorship? * * * Of course, as I have said, once you yield to the Federal Government the right to tamper with State law pertaining to voting, you have already lost your freedom, no matter what the phrasing. This bill simply spells out more clearly in precise language how this will be done by the Federal Government. For Members of this high legislative body, representing trusting citizens back home, to permit such legislation to be given even a serious audience here would be laughable were it not so serious. I cannot conceive Member of Congress failing to see the danger of this legislation, or too busy to take the time to study this bill, or, worst of all, laughingly or tauntingly making political attacks upon each other through this medium. Our very freedom is at stake.

The reports accompanying this bill should be studied by all Members of Congress. The minority report and additional minority views, I heartily endorse, as I do the resolution joined by certain Congressmen disapproving the bill. The minority views point out graphically the many and comprehensive civil-rights laws now on the books. * * *

I cannot speak for others, but I speak out boldly and with complete conviction against this "civil rights violation" bill. From these observations it should be obvious that this is not a racial matter, as some mistakenly consider it. This type of legislation could be the swan-song for civil liberties of all United States citizens.

The CHAIRMAN. You made a very brief, but nonetheless succinct, argument for your side.

Mr. ALGER. Thank you, Mr. Chairman.

The CHAIRMAN. We will now hear from the Honorable W. J. Bryan Dorn, Representative from South Carolina, who wants to testify in his own behalf and introduce the executive chairman of the South Carolina Bar Association, Mr. Thomas H. Pope.

Mr. DORN. Mr. Chairman, with your permission I would like to present my distinguished guest, and I will make a very few remarks following his testimony.

We are proud of these young progressive men who are serving the people of South Carolina that we have listened to here today, and it is my happy privilege to present still another one of our outstanding lawyers of South Carolina, a man who served with distinction as a colonel in the late world war, and a man with whom I served in the House of Representatives of South Carolina in 1938, 1939, and 1940, and who later on was elected speaker of the House of Representatives of South Carolina, one of the youngest we have ever had.

It is my happy privilege, Mr. Chairman and gentlemen of the subcommittee, to present to you Col. Thomas H. Pope of my district of South Carolina.

The CHAIRMAN. How long do you think you will take, Mr. Pope?

Mr. POPE. I will be as brief as possible.

The CHAIRMAN. How long is that?

Mr. POPE. I would like to have about 20 minutes, if that is possible.

The CHAIRMAN. All right.

STATEMENT OF THOMAS H. POPE, CHAIRMAN, EXECUTIVE COMMITTEE OF THE SOUTH CAROLINA BAR ASSOCIATION

Mr. POPE. Mr. Chairman and gentlemen of the committee, I appear here as spokesman for the South Carolina Bar Association.

The CHAIRMAN. You don't mind if I stand, too, do you?

Mr. POPE. You remind me of my own actions when I was speaker of the house. I frequently stood.

May I say before I go any further in my remarks that it is a pleasure to be before you here today. I have heard of your impartial treatment of witnesses, and I want to say that we in South Carolina have long had a man of your race in our house of representatives as speaker, Mr. Solomon Blatt. He has been speaker longer than any other man in the history of South Carolina. He is the only speaker living or dead whose portrait adorns a wall of that chamber, and from all reports, I know that you are a worthy disciple of his race and yours, and I am glad to be here today.

Mr. KEATING. Do not steal him away from New York and take him down to South Carolina.

Mr. POPE. I would like to have him come down and see that there is no persecution.

Mr. Chairman and gentlemen, I am here, as I said, as spokesman of the South Carolina Bar Association and as representative of Governor Timmerman.

I want to raise four objections to the civil rights legislation which is pending before this subcommittee.

First, we take the position, as did the attorney general of Virginia this morning, that the legislation is a violation of the spirit and letter of the Constitution.

Secondly, we take the position that the proposed legislation is entirely unnecessary in view of existing State and Federal statutes on the subject.

Thirdly, we take the position that the proposed legislation would be extremely unwise.

And the fourth reason we oppose this is because we deem it an unwarranted extension of Federal jurisdiction into the lives of individual Americans.

Let me say it would be the work of supererogation, in view of Mr. Almond's statement, to say why we have objection to the constitutionality of this. He covered that this morning, and I heartily endorse everything he said in that connection.

I have taken the trouble, Mr. Chairman, to prepare a short memorandum of the existing State and Federal statutes which deal with civil rights. I would like permission to file this letter with the committee so that I do not have to burden you with going into all the

details at this time. I know you must be growing weary after having sat here all day and listened to somewhat repetitious argument.

The CHAIRMAN. You have that permission.

(The document referred to follows:)

Article I of the South Carolina constitution for 1895 enumerates the rights of its citizens and includes among other guarantees those of free elections, trial by jury, and universal manhood suffrage. Payment of a poll tax or any other tax is not a prerequisite to exercising the right to vote in South Carolina.

Section 6 of article VI of the State constitution reads as follows:

"Prisoner lynched through negligence of officer; penalty on officer; county liable for damages.

"In the case of any prisoner lawfully in the charge, custody, or control of any officer, State, county, or municipal, being seized and taken from said officer through his negligence, permission, or connivance, by a mob or other unlawful assemblage of persons, and at their hands suffering bodily violence or death, the said officer shall be deemed guilty of a misdemeanor, and, upon true bill found, shall be deposed from his office pending his trial, and upon conviction shall forfeit his office, and shall, unless pardoned by the Governor, be ineligible to hold any office of trust or profit within this State. It shall be the duty of the prosecuting attorney within whose circuit or county the offense may be committed to forthwith institute a prosecution against said officer, who shall be tried in such county, in the same circuit, other than the one in which the offense was committed, as the attorney general may elect. The fees and mileage of all material witnesses, both for the State and for the defense, shall be paid by the State treasurer, in such manner as may be provided by law: *Provided*, In all cases of lynching when death ensues, the county where such lynching takes place shall, without regard to the conduct of the officers, be liable in exemplary damages of not less than $2,000 to the legal representatives of the person lynched: *Provided, further*, That any county against which a judgment has been obtained for damages in any case of lynching shall have the right to recover the amount of said judgment from the parties engaged in said lynching in any court of competent jurisdiction."

Section 10–1961 supplements this constitutional guaranty and reads as follows:

"When county liable for damages for lynching.

"In all cases of lynching when death ensues the county in which such lynching takes place shall, without regard to the conduct of the officers, be liable in exemplary damages of not less than $2,000, to be recovered by action instituted in any court of competent jurisdiction by the legal representatives of the person lynched, and they are hereby authorized to institute such action for the recovery of such exemplary damages. A county against which a judgment has been obtained for damages in any case of lynching shall have the right to recover in any court of competent jurisdiction the amount of such judgment from the parties engaged in such lynching and is hereby authorized to institute such action."

Our supreme court has held that section 6 of article VI and code section 10–1961 should receive a liberal interpretation to the end that the remedy prescribed should not be denied in any case coming substantially within its spirit (*Kirkland* v. *Allendale County*, 128 SC 541, 123 SE 648).

Title 16 of the Code of Laws of South Carolina for 1952 deals with crimes and offenses. Article 2 of chapter 2 defines lynching and provides for its punishment.

Section 16–57 provides that any act of violence inflicted by a mob upon the body of another person which results in death constitutes the crime of lynching in the first degree and is a felony. Any person found guilty of lynching in the first degree shall suffer death unless the jury shall recommend mercy, in which event the defendant shall be confined at hard labor in the State penitentiary for not less than 5 years nor more than 40 years.

Section 16–58 provides that any act of violence inflicted by a mob upon the body of another person and from which death does not result constitutes the crime of lynching in the second degree and is a felony. Any person found guilty of lynching in the second degree shall be confined at hard labor in the State penitentiary for not less than 3 nor more than 20 years.

Section 16–59 defines a mob as the assemblage of two or more persons, without color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another. Section 16–59.1 provides that all persons present as members of a mob when

an act of violence is committed shall be presumed to have aided and abetted the crime and shall be guilty as principals.

Section 16–59.2 directs the sheriff of the county and the solicitor of the circuit where the crime occurs to act as speedily as possible in apprehending and identifying the members of the mob and bringing them to trial. Section 16–59.3 gives the solicitor summary power to conduct any investigation deemed necessary by him in order to apprehend the members of a mob and empowers him to subpena witnesses and to take testimony under oath, and section 16–59.4 provides that this article shall not be construed to relieve any member of any such mob from civil liability.

Article 1 of chapter 3 deals with conspiracy against civil rights. Section 16–101 reads as follows:

"Conspiracy against civil rights.

"If any two or more persons shall band or conspire together or go in disguise upon the public highway or upon the premises of another with intent to injure, oppress or violate the person or property of any citizen because of his political opinion or his expression or exercise of the same or shall attempt by any means, measures or acts to hinder, prevent or obstruct any citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States or by the constitution and laws of this State such persons shall be guilty of a felony and, on conviction thereof, be fined not less than $100 nor more than $2,000 or be imprisoned not less than 6 months or more than 3 years, or both, at the discretion of the court, and shall thereafter be ineligible to hold, and disabled from holding, any office of honor, trust or profit in this State."

Section 16–105 reads as follows:

"Penalty for hindering officers or rescuing prisoners.

"Any person who shall (a) hinder, prevent or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of this article in arresting any person for whose apprehension such warrant or other process may have been issued; (b) rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid; (c) aid, abet or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid; or (d) harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for any such offense, be subject to a fine of not less than $50 nor more than $1,000 or imprisonment for not less than 3 months nor more than 1 year, or both, at the discretion of the court having jurisdiction."

Section 16–1–2 provides that if in violating any of the provisions of sections 16–101 or 16–105 any other crime, misdemeanor, or felony shall be committed the offender or offenders shall, on conviction thereof, be subjected to such punishment for the same as is attached to such crime, misdemeanor, and felony by the existing laws of this State.

Section 16–103 requires any constable, magistrate, or sheriff, upon receipt of notice of an intention or attempt to destroy property or to collect a mob for that purpose, to take all legal means necessary for the protection of such property and in case of negligence or refusal to perform his duty, to be liable for the damages done to such property and to forfeit his commission upon his conviction. Section 16–104 requires all sheriffs, constables, and other officers who may be empowered to obey and execute all warrants issued under the provisions of the foregoing sections and provides that in case of refusal, for a fine of $500 to the use of the citizens deprived of the rights secured by the provisions of this article or for imprisonment in the county jail.

Section 16–106 permits persons injured to sue the county for damages to person or property and reads as follows:

"Persons injured may sue county for damages to persons or property.

"Any citizen who shall be hindered, prevented, or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State or shall be injured in his person or property because of his exercise of the same may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby and the county shall be responsible for the payment of such damages as the court may award, which shall be paid by the county treasurer of such county on a warrant drawn by the governing body thereof.

Such warrant shall be drawn by the governing body as soon as a certified copy of the judgment roll is delivered to them for file in their office."

Section 16–107 provides for indemnity for property destroyed by a mob or riot by the county in which such property was situated. Section 16–108 denies recovery from the county where caused by the person's illegal conduct or failure to give notice of the intention or attempt to destroy his property if he has knowledge and sufficient time to do so.

Section 16–109 preserves the right of the injured person to recover full damages for any injury sustained from any and every person participating in such mob or riot.

Section 16–110 vests jurisdiction for these actions in the circuit courts of South Carolina.

Section 16–111 gives the governing body of the county against which damages shall be recovered the right to bring suit in the name of the county against any and all persons in any manner participating in such mob or riot and against any constable, sheriff, magistrate, or other officer charged with the maintenance of the public peace who may be liable, by neglect of duty, to the provisions of this article for the recovery of all damages, costs, and expenses incurred by the county.

Section 16–112 requires sheriffs, constables, and other officers to institute proceedings against every person violating the provisions of this article and to cause them to be arrested, imprisoned, or bailed, as the case may require, for trial; and section 16–113 provides that any person, upon conviction of engaging in a riot, rout, or affray when no weapon was actually used and no wound inflicted shall be subject and liable for each offense to a fine or imprisonment.

Article 2 of this chapter prohibits in section 16–114 the wearing of masks upon the streets, highways, or public property of the State, while section 16–116 makes it unlawful for any person to place in a public place in the State a burning or flaming cross, real, or simulated, and section 16–117 prescribes the penalty for such offenses.

Congress has existing laws protecting the civil rights of all citizens. In section 241, title 18, United States Code, it is provided:

"If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or pivilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

"If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured * * *.

"They shall be fined not more than $5,000 or imprisoned not more than 10 years, or both."

This language is remarkably similar to the South Carolina statute on the same subject.

Section 1983 provides a civil remedy to every person deprived of any rights, privileges or immunities secured by the Constitution and laws and section 1985 defines a conspiracy to interfere with civil rights and likewise affords a civil remedy for the recovery of damages occasioned by any injury or deprivation against any one or more of the conspirators.

Similarly, section 1986, title 42 United States Code, provides a right of action against any person having power to prevent or aid in preventing the commission of the conspiracy who neglects or refuses to do so and, finally, section 1988, title 42, United States Code, provides for proceedings in vindication of civil rights.

It is, therefore, perfectly apparent from the foregoing that any person in South Carolina deprived of his civil rights has access, either to the State or to the Federal courts, on either the criminal or the civil side.

The CHAIRMAN. You may proceed, sir.

Mr. POPE. May I say also that South Carolina has no poll tax or any other tax as a prerequisite to voting. We did that on our own volition, and without any Federal intervention.

We have also extended the suffrage to a point as has already been outlined, and as president of the Democratic convention from our State this year, as presiding officer of that convention, I know that there was not a single protest from any precinct in South Carolina of anyone's being denied the right to vote.

As spokesman for South Carolina before the credentials committee in the National Democratic Convention, I know that there was no protest except from one small group which wanted to discard the rules of the Democratic Party and to divide the delegation, not because that particular group had been denied anything, but because they felt that the Negroes should be allowed some representation.

I call your attention to the fact that the Constitution of South Carolina which was adopted in 1895, contains a provision which defines lynching and which provides that the county in which any lynching occurs shall be responsible in exemplary damages of not less than $2,000.

I call your attention to the fact that our code of law contains a supplementary statute to that constitutional provision which provides that the trial shall be held in another country other than the offending one, and that the damages shall not be less than $2,000.

The Supreme Court of South Carolina in 1924, 30 years before the civil-rights problem became acute in these United States, construed that constitutional provision and that statutory construction and the court held that the section of the constitute and the code section should be given the most liberal interpretation possible, and the judge who tried that case of *Kirkland* v. *Allendale County*, which was reported in 128 Supreme Court, page 541, 123 Southeast 648, directed a verdict against the county.

There were rather questionable circumstances about the lynching because the Negro who was lynched had been shot severely while he was trying to escape immediately after having assassinated a white doctor in Allendale County.

The testimony was fairly clear that he would have died anyway from a bullet wound he received irrespective of any treatment he received at the hands of the mob.

Our statute, long before any pressure was exerted, said that it did not matter how that Negro came to death, so long as that evidence showed that there was an attempt to lynch him. I must say I am proud of my court for having reached that decision, because we have often been pilloried unjustly by the rest of the States.

We have got a lynching law in South Carolina. They do not have one in Massachusetts, and just a few days ago, within the last 10 days, a Negro man was accosted on the street, and I notice from the Associated Press accounts that it is not called a lynching in Boston. It would be called a lynching in South Carolina, and we would admit that it was a lynching, and just because they lynch a Negro in Boston does not mean that the Federal Congress has to pass a law to step in and take the place of Massachusetts law.

Section 16-101 reads as follows:

> If any two or more persons shall band or conspire together or go in disguise upon the public highway or upon the premises of another with intent to injure, oppress, or violate the person or property of any citizen because of his political opinion or his expression or exercise of the same or shall attempt by any means, measures, or acts to hinder, prevent, or obstruct any citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State such persons shall be guilty of a felony and, on conviction thereof, be fined not less than $100 nor more than $2,000 or be imprisoned not less than 6 months or more than 3 years, or both, at the discretion of the court, and shall thereafter be ineligible to hold, and disabled from holding, any office of honor, trust or profit in this State.

Section 16–57 provides that any act of violence inflicted by a mob upon the body of another person which results in death constitutes the crime of lynching in the first degree and is a felony. It is punishable by death unless mercy is recommended, in which the sentence is no more than 40 nor less than 5 years. Section 16–58 defines lynching in the second degree as any act of violence inflicted by a mob upon the body of another person which does not result in death. That is punishable by hard labor in the State penitentiary for not less than 3 nor more than 20 years.

We have statutes that go along with the lynching law as part of it which provide that the sheriff of the county and the solicitor of the circuit court have to do everything as speedily as possible in apprehending and identifying the members of the mob and bringing them to trial. The solicitor is given summary power to conduct investigations as he shall deem them necessary. Then we have a section which provides that no member of the mob is relieved of civil liability because of the right of the personal representative of the lynched person to sue the county where it occurred.

In other words, under South Carolina law the personal representative of the deceased has a choice of action. He can sue the county and recover not less than $2,000 damages, or he can sue any individual or all of the individuals who are identified as members of the mob. I say that I am proud of that law, and I believe that it is as well written as any law on the books of any American State.

Yes, and then we have a section which deals with conspiracy against civil rights. It may come somewhat as a shock to some Members of the Congress to realize that in South Carolina, away down in the Deep South, we have had a law on our statute books for more than 90 years which reads as follows:

SECTION 16–101: CONSPIRACY AGAINST CIVIL RIGHTS

If any two or more persons shall band or conspire together or go in disguise upon the public highway or upon the premises of another with intent to injure, oppress or violate the person or property of any citizens because of his political opinion or his expression or exercise of the same or shall attempt by any means, measures or acts to hinder, prevent or obstruct any citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State such persons shall be guilty of a felony and, upon conviction thereof, be fined not less than $100 nor more than $2,000 or be imprisoned not less than 6 months or more than 3 years or both, at the discretion of the court, and shall thereafter be ineligible to hold, and disabled from holding, any office of honor, trust or profit in this State.

There is a companion section, 16–105, which describes a severe penalty for hindering officers or rescuing prisoners. Yes, and we have other sections which require our magistrates and sheriffs and constables upon notice of mobs gathering to go there and protect the property of the person, and it further provides that they shall be removed from office if they do not do it.

Mr. KEATING. Do you have a record of prosecutions under that statute?

Mr. POPE. No, I do not. Frankly, I have not found a prosecution under it; but the courts have been open to the citizens of my State since 1871.

I do not know of any prosecution under the lynching law which we have now, but I do know of several suits which have been brought

in the courts for the recovery of damages where damages were recovered.

Mr. KEATING. When was that statute enacted?

Mr. POPE. In 1871, sir.

Of course, it was enacted while South Carolina was under the bayonet rule of the Federal Government. We had a black and white State government which was kept in at the point of northern bayonets, but we have had 80 years to repeal that statute and we have never sought to do it, although the bayonets were removed from South Carolina in 1876.

I say that in addition to the State laws, there are numerous others which are covered in this memorandum. We have in section 241 of title 18, United States Code, a provision which provides:

> If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or
>
> If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured——
>
> They shall be fined not more than $5,000 or imprisoned not more than 10 years, or both.

This language is remarkably similar to the South Carolina statute on the same subject. My point, Mr. Chairman and gentlemen of the committee, is this: That at the present time any citizen of South Carolina whose civil rights are threatened has a choice of four courses of action.

He can go into the criminal courts of South Carolina and take out a warrant for the arrest of anyone who has sought to deprive him of his rights; he can go into the civil courts of the State of South Carolina and sue any person who has sought to take his rights from him; he can go into the Federal district court and bring civil action against people who have sought to take his civil rights; or he can complain to the district attorney and ask that a warrant be issued in the Federal criminal court against the people who have sought to oppress or injure him.

Mr. KEATING. However, he cannot go into the Federal court on the civil side unless he has exhausted all these administrative remedies.

Mr. POPE. That is right.

The CHAIRMAN. And he cannot proceed unless it is criminal conspiracy.

Mr. POPE. Yes, sir; but he can go into the courts of South Carolina without exhausting any on either side, the criminal or the civil.

What we object to primarily in H. R. 1151, which Mr. Miller asked about, is the establishment of the commission. There are many other objectionable provisions, but I want to try to cover them as quickly as I can. One of them is where an attorney general of the United States is allowed to bring an action against a private citizen on behalf of another private citizen who claims that his rights have been invaded, and to wrap that plaintiff in the sanctity of the name of the United States Government.

The CHAIRMAN. We have done that before, sir.

Mr. POPE. Yes, sir; and it has been wrong every time it has been done. I do not like that either. I do not like the Fair Labor Standards Act, the Government going in and trying to rule by injunction, and

there are many judges in this country who feel just as I do, that it is highly improper to attempt to govern a free people by the use of a permanent injunction.

The CHAIRMAN. I do not mean the use of a permanent injunction. I mean he can bring action on behalf of a private individual under the Walsh-Healey Act.

Mr. POPE. Yes, sir; and I think that is wrong. Just because it has been done before, does not mean that it is good precedent. In my understanding of the constitutional rights of citizens, the spirit of fair play which our Central Government should show, to all citizens, and we are the largest single minority in these United States, do not we have some rights, Mr. Chairman?

The CHAIRMAN. I am only trying to get your point of view.

Mr. POPE. In offering my reply I am trying to give you my point of view, that it is grossly unfair in any case that involves disputes between private citizens for the United States to become the adversary in name and to share the expense of that action, or to bear the expense of that action.

I said that it is unnecessary, and I think that it is. I think that any fairminded person who looks at the existing statutes can tell that any individual certainly in South Carolina has the full right of recourse against either an arm of the State of South Carolina or against a private citizen who attempts to deprive him of his civil rights; and I believe that this legislation is unwise further for that reason.

There are several reasons for my saying that. In the first place, there is little racial tension in South Carolina at this time. There is some, of course. What exists today has been engendered by the extremists on both sides since the unfortunate decision of May 17, 1954.

Up until that time, the two races were living harmoniously in South Carolina, and I hope and pray that the tension will not increase to the point that there will be any violence on either side, because I deplore violence.

As a lawyer and an officer of the court, I think that the lawfully constituted government of South Carolina is fully capable of handling the affairs of its citizens. I do not believe that either the NAACP or the other groups belonging to either one of the extremist groups, should be permitted to do that. I do not believe in either the NAACP or the Ku Klux Klan.

I speak here as a moderate South Carolina citizen who respects the individual dignity of the individual man, a man who believes, as Mr. Spruill said, that every citizen has certain rights which should be protected.

I believe that his rights are being protected in South Carolina.

Now, what is going to be the result if we have a Federal gestapo set up operating under the Attorney General's Office? Those Federal agents are going to come into the South and they are going to try to get information about everybody, whether they are Democrats or Republicans. They are going to destroy the fine present relationship which exists between the FBI and our own law-enforcement officers in the State of South Carolina.

Mr. HOLTZMAN. Is it going to be bipartisan gestapo?

Mr. POPE. I do not know what kind of gestapo will be sent down from Washington, but I imagine they will operate on both Republicans and Democrats in South Carolina because we feel the same way on this question of civil rights.

Mr. KEATING. What leads you to believe that there might not be members from South Carolina on such a commission?

Mr. POPE. Sir, anyone from South Carolina who was put on that commission would have to be a newcomer to South Carolina, because if he felt like those of us whose people have lived in South Carolina for 300 years, he would not be on it because we do not believe in that kind of government and we are not that hard up for jobs.

Mr. KEATING. It is not a matter of the jobs. We, of course, know that the President would consider all factors and then appoint the men and send them to the Senate for confirmation.

Mr. POPE. Mr. Keating, I have great respect for General Eisenhower as a general. I served under him in a very minor way. I have great respect for him as a general. I have no respect for the present Attorney General—I do not like to indulge in personalities.

Mr. KEATING. I did not ask you to characterize either the President or the Attorney General.

Mr. POPE. I think the present Attorney General is as biased against the South as any man in any party since the days of Thaddeus Stevens. I do not want a commission appointed by Mr. Brownell.

My second point is this: You know and I know that law enforcement officers have to depend on, shall we call it, stool pigeons for their information. In order to solve crimes, they have got to have certain people that they can go to and get information from. It happens in every community in the world, and I believe that if we set up a commission and send agents down to the South, that it is going to break down to a large degree the present relationship between the FBI and our local law enforcement officers.

They are not going to be able to use the information that they have been using or to obtain it. There is no need to do that.

There is another reason that is even more fundamental than that: That is if they set this Commission up, we are going to either sooner or later be hard pressed to find decent, honorable, educated people who will accept positions as school trustees or as law enforcement officers or in other capacities which might subject them to this summary treatment by a commission that would come down investigating charges that were made by unknown persons.

I believe that that is a very valid reason for opposing any such commission.

Mr. MILLER. Would your objection to that section be eliminated somewhat if that provision in the bill were amended to provide that any determination made by the Commission, that the previous investigation would have to be sworn to by the complainant?

Mr. POPE. Yes; that would help. I think it would also help to eliminate the powers of the Commisison in House bill 1151. Under that, section 104 (b) provides that the Commission may act and utilize the services of volunteers. I think that that will be outrageous in its end result because only these—well, we might say, the latter day abolitionists societies of the North, will be volunteering their services freely to the Commission.

Mr. MILLER. They will be members of the ADA?

Mr. POPE. Certainly.

I do not like that business of letting the Commission hold hearings anywhere in the country and subpena people to come.

I do not believe that any citizen ought to be made to go out of the Federal district in which he lives. That is the present subpena power which is limited that way in the Federal courts, and I do not see why they should not be similarly limited in any bill that you might see fit to adopt.

Mr. KEATING. That is not true. Congressional committees are not limited that way.

Mr. POPE. I realize that, sir; but I do not believe that Congress should extend its present broad powers possessed by a congressional committee through a congressional commission setup under the executive branch of the Government.

I am not advocating that there is anything particularly good about this bill, Mr. Miller. Do not misunderstand me, but I want to pick out the particular things that are particularly obnoxious to the South Carolina Bar Association.

I have already said that I object to the Attorney General's using the great name of the United States as a party plaintiff, and I do object to that.

Mr. MILLER. Will they without the consent of the person?

Mr. POPE. With or without the consent of the person; yes. I also object to the fifth provision of section 121 which appears on page 7:

> The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

That is nothing but an attempt to set up a new method of getting around the requirements of the school laws of various States that give certain school officials the power, the necessary power, I may say, in controlling their schools; of assigning pupils.

This would eliminate the appeal to the county board of education and in turn to the State board of education, and I think that would be bad for that reason.

I see no reason for the Federal Government to attempt to upset the statutes at all on the method of bringing actions before the courts.

I said that my fourth reason for objecting was that this was an unwarranted extension of the Federal bureaucracy, and I sincerely believe that it is.

I disagree with you, Mr. Miller, that a citizen in New York State has a vested interest in a right of a citizen in South Carolina to vote for an election for the Presidency or for the Congress.

I do not believe that it is any concern of any person in any other State as to who votes or does not vote in the State of South Carolina. We are protecting our right to vote. They chose to live in the State of South Carolina as citizens, they are living there, and as such they are subject to the laws of that great State.

Mr. MILLER. But they are presuming there, you are presuming the protection of the right to vote.

Mr. POPE. They have that under the law.

Mr. MILLER. But we have evidence that that is not so in one State.

Mr. POPE. I do not know about other States, but I know in South Carolina they have the right to vote.

Mr. MILLER. If I could agree with that presumption on any State, I could probably agree with you on South Carolina.

Mr. POPE. I was hoping you would agree. I was also hoping you would agree about your not having an interest in any voter. As long as we have the electoral method of electing a President and Vice President, we are not electing those people by a plurality all over the country. What possible difference can it make to a person in New York how I vote in South Carolina.

The CHAIRMAN. It makes a big difference, Mr. Pope, because there is a provision in the 14th amendment which concerns every person in the Nation. That provision provides that where a State denies the right to vote in any national election, that representation in the House of Representatives shall be reduced accordingly, so we do have an interest in what happens in South Carolina as to voting.

Mr. POPE. No, sir. Just a minute, if you will excuse me. The House of Representatives does not have to seat anyone if there is evidence of vote fraud in South Carolina or where citizens have been deprived of their rights to vote.

The CHAIRMAN. That is one, and there are others in the Constitution, and in the 14th amendment. If you would use methods that would involve any quality of rights, then you offend other provisions of the Constitution, and then we have the right in New York or any other State to step in and say you are not giving proper votes to your people and therefore your representation shall be cut down.

Mr. POPE. You do in that respect, but your resort should be to the courts and not to the Congress.

The CHAIRMAN. The Congress is the one that must do it. The Constitution says Congress must act under those circumstances. It is the only place in the 14th amendment where Congress has a duty placed upon it by the amendment.

The other provisions, there is no duty placed upon Congress. It may or may not act, but here it specifically says Congress must act. The mere fact that Congress has not acted does not absolve Congress from its responsibility.

Mr. POPE. If you did act, I presume you would act in the form of a criminal statute where the United States of America would bring any offenders to the United States courts; would it not?

The CHAIRMAN. No; I do not think so.

Mr. FOLEY. I imagine it would be a political question; would it not? The reduction of apportionment would be a political question.

Mr. POPE. That would be a question that the Congress would decide, but the point I am making is that as far as the individual who has been deprived of his vote is concerned, and that is what we are here talking about today, you would have a right under the existing laws to prosecute that person in South Carolina who deprived him of his right.

That is the point I am trying to make, and that certainly does not give somebody in New York State a vested interest in how I vote in South Carolina.

As a citizen of America he is interested in seeing that the 14th amendment is not violated in South Carolina. I grant you that. As a citizen of America he can come to the district attorney in South

Carolina and swear out a warrant, but he has got no right as a citizen of New York or as a Member of this Congress to pass other legislation which would permit injunctions for alleged violations which were brought out as contempt without trial by jury.

If the United States itself is a party to that action, I believe most clearly then that jury trial is not guaranteed to the citizen.

Mr. FOLEY. If the United States is a party.

Mr. POPE. If the United States is a party. That is the point I make. In section 3691, title 18, United States Code, there is a provision that there shall be a jury trial on criminal contempt where the conduct also constitutes a criminal offense, but in the last saving clause it provides that that shall not apply where the person who commits the contempt is in the presence of the court or in immediate proximity thereto, or where the United States of America is a party.

That is exactly why I say that is grossly unfair and unconstitutional, in my opinion. It violates the spirit of the Constitution. It very definitely violates the spirit of the Constitution for you to consider passing legislation here which would make the United States of America a party plaintiff in a civil action, and if anybody violated that injunction they might be deprived of the right to trial by a jury; is that not right, Mr. Foley?

Mr. FOLEY. That is correct as to the nonjury phase.

The CHAIRMAN. You state the law correctly.

Mr. POPE. And I think the present law is sufficient. If anyone wants to complain that his rights have been violated, he should be required to go into court and sign a warrant for the person who deprived him of such rights.

And Attorney General Brownell and none of his cohorts should accept seriously evidence over the telephone of a hearsay nature or by postcard that someone in South Carolina has intimidated Tom Pope or kept him from exercising his civil rights, and send a whole horde of Federal employees down there to mistreat the South Carolina citizens. That is my whole point. If you have any questions, I will be glad to answer them.

The CHAIRMAN. Thank you very much. You have been very forthright and sincere in your point of view, and we appreciate it.

Mr. POPE. Thank you, Mr. Chairman. I think if I do not trespass on the time of the committee, that here I would like to say one more thing, that when we come down to the oft-repeated statement that there were no differences in races, I think if we would walk over to the Senate Chamber this afternoon and listen to the debate on the Middle Eastern situation, we would realize that there are always disputes when two different nations live as close together, as, for instance, the Arabs and the Jews in Israel.

The CHAIRMAN. They are of the same race, they are both Semitic.

Mr. POPE. They act differently.

The CHAIRMAN. If they are left alone, they get along famously; but when they are not left alone, they do not.

Mr. POPE. That is exactly what the citizens in South Carolina say.

The CHAIRMAN. Mr. Dorn.

STATEMENT OF HON. W. J. BRYAN DORN, REPRESENTATIVE IN CONGRESS, THIRD CONGRESSIONAL DISTRICT OF THE STATE OF SOUTH CAROLINA

Mr. DORN. Mr. Chairman, I realize that all of you are very anxious, as I am, to get back to the office.

First I would like to compliment the committee for its very fair and impartial hearing and its willingness to hear so many witnesses.

I compliment you, Chairman Celler and General Keating, on the very high plane upon which you conducted the debate in the House last year. I do not remember ever sitting in the House when a debate was going on that was kept on a higher plane, and I commend both of you.

There are 1 or 2 things that possibly have not been mentioned about this legislation that I would like to mention briefly, and one is this: I think you are here setting up the machinery by which someday someone can visit upon the very people, whom we profess to protect today, discrimination.

I think I can cite, Mr. Chairman, the past history of the world to prove this point. I do not know of any nation in all of the history of the world where discrimination on a wholesale basis was practiced but that first the machinery of government was placed in the hands of one man or a few men.

You can go back to Rome and all the way back in history. Adolph Hitler persecuted a race of people; before he could do that he had to get control of the machinery of the federal government. Then he was able to establish an army and a gestapo rule with which to carry out this inhuman discrimination. The same was true of Mussolini in Italy; and the same, of course, was true of the Communists in Russia.

Before they could visit discrimination and liquidation against the Ukraine or the Poles or any other section of the Soviet Union, they had to have the machinery to operate from, and I greatly fear that today we are in this same position, that this legislation if it is passed is taking a step—however small—we are still taking a step in the direction of creating that machinery whereby someday human nature being what it is, you will always find someone who will step forward and use that machinery and will persecute and possibly liquidate minority races of people.

On the other hand, the Greek Republic, the British democracy, the French democracy, and our own republican form of government in America, it has never been quite possible for an Attorney General or a Himmler or for the head of state to persecute or liquidate or discriminate against any minority. It has been impossible because of local respect for law, because of local government, because of State government, and because of the machinery created by the Founding Fathers of this country.

You cannot point to me anywhere in the history of the world, where they had a true democracy as their form of government with emphasis on local government, that you ever had mass discrimination and liquidation of the people.

I might say, Mr. Chairman, that the trouble in the Near East today is largely a result of the fact that in all of those states, or practically all of them, you have the control of the government in the hands of

a few people. You have it centralized. You have it federalized. It is often in the hands of only one man.

That is the reason why the whole world is threatened with war today, because of this discrimination between races and between religions in the Near and Middle East.

I visited that area, Mr. Chairman, and it was shocking to me to hear my driver tell me in Kurachi that his wife and children were burned alive before his own eyes the year before because he was a Moslem.

He said there has been a million people killed here because of religious belief since the war.

I came on over into Jordan and Syria and heard the same thing about differences in race. I attribute that largely to the fact that they do not do anything about dignity of the individual and do not practice democracy, and freedom of the individual on a local basis. This should be what we are seeking to preserve in this country today. If we continue to federalize, and centralize, our government, there will always be someone who will misuse that power. You only have to look at the history of the world to know that is true.

I come here today as a liberal.

Mr. KEATING. As a what, sir?

Mr. DORN. I come here as a liberal, because I believe, General, in the dignity and freedom of the individual. I believe and I say, standing here today, that the State of New York and all of the other 47 States of the American Union are capable under the Constitution of carrying out their constitutional rights and prerogatives.

I likewise believe that the local communities of this country are capable of local government. That is where I differ with the so-called liberal element—who are always advocating a stronger centralized Government.

In reality these liberals are saying, Mr. Chairman, that we do not believe in the ability of the local communities of this country or the States or the people to govern themselves. In other words, this is real true democracy, and they do not believe in it. These liberals are in essence saying we are going to concentrate the power in Washington, D. C., one city, because we do not believe in the people. We do not have confidence in local or State government.

I, on the other hand, believe in the people. This is the reason why I characterize myself here today as a real true liberal, because I believe with Jefferson that the least governed is the best governed.

I have studied Hitler; I have studied all those people. They could not have done all the horrible things they did without the machinery to do it, and here we are in America today taking a new step in the direction of further centralization of the Federal Government.

This is another step toward complete federalization which started 20 years ago. We are causing the people of this country to look to Washington consciously, and subconsciously, for satisfaction of nearly every single gripe and every single wrong under the sun, and I knew of nothing in the future that will be more detrimental to the welfare of this country.

A sheriff talked to me not long ago down in my district, and he said I have served as sheriff of this county for 16 years, but I am reluctant to run for reelection because I am afraid of the Federal

Government of the United States. I am afraid that I might be falsely accused of some discrimination and get mixed up in this maze of Federal redtape and Federal bureaucracy and ruin the career that I have built up before my community.

If this type of thing continues it will be difficult to get good people to serve in public capacities at the local level and will be difficult to get the best people to serve as sheriffs and policemen.

Mr. KEATING. Those men will all be running for Congress.

Mr. DORN. I hope not.

I do try every year to speak in as many high schools as I can, to warn the students of this threat to freedom. During my tenure in Congress, I have seen a growing tendency on the part of the individual American citizen to look to Washington for every single thing.

Some day in the near future the atmosphere will be ripe for dictatorship if that condition continues. Already people do not talk about what Congress is doing today, they want to know what Eisenhower is going to do, they wanted to know what Truman was going to do, what Roosevelt was doing. They are speaking of personalized government, they are speaking in terms of one man. This is slowly but surely getting the people ready for a one-man dictatorship.

I believe in the system of checks and balances that we have in this country. I think this bill is a wonderful opportunity, an opportunity that probably no other committee of the Congress has, to do away with this fear policy, to do away with this defensive policy of adopting totalitarianism in the name of fighting totalitarianism, this policy of spreading disease in the name of trying to stop this disease—you have a great opportunity to stand up and tell the American people—and it will make the headlines all over the world and it will be the greatest advertisement for local government and individual liberty that I know of if you will only say to the world this legislation is not needed.

America has already made more progress along the lines of eliminating discrimination of peoples of minority races than any other country in the world. These religious and race troubles of the Near East are threatening to engulf the whole world in war. These things have not happened in this country. Therefore, it is a tribute to the kind of government that our forefathers established and it is the duty of this Congress to maintain.

You gentlemen know it. We are doing this not consciously perhaps, but we are doing this because Russian criticism of the United States of America, because in the United Nations and in their propaganda they have been saying throughout the world that there is discrimination throughout the United States.

If we follow that fallacious thinking right on through, we will eliminate the Constitution of this country. We will deprive our people of the right to vote, and we will eliminate religion because Russia does not believe in that either. I think it is time to stand up for the type of government that our forefathers have built and protect the system of checks and balances.

That is all I have to say, gentleman.

The CHAIRMAN. Thank you, Mr. Dorn. This will close these hearings.

Mr. KEATING. I might say in a blaze of glory.

Mr. Chairman, I ask unanimous consent to have the following editorial from the Greenville News appear at this point in the record. This editorial is thought provoking, timely, and speaks for itself.

[From the Greenville (S. C.) News, February 26, 1957]

CIVIL RIGHTS BILLS THREATEN LIBERTY

(EDITOR'S NOTE.—The following editorial is taken from a statement prepared by the editor of the News at the request of the Governor of South Carolina. The statement is to be offered to the subcommittee of the House Judiciary Committee this afternoon by representatives of this State who are appearing in opposition to the civil rights bills.)

The civil-rights bills of 1957, like those proposed during the last 20 years and more by individuals of both parties and by administrations of both parties, are anachronistic.

An anachronism is something that is misplaced in time. In this instance, it is a throwback to a more primitive age which is, at best, a misfit and, at worst, a destructive force in the age in which it occurs.

And when intelligent and otherwise dedicated men ignore more pressing and more serious problems and pass up greater opportunities for service to deliberately create such an anachronism, the result is bound to be tragic.

Even if we could assume, which we cannot, that the broad and untested powers these proposed laws would confer on an already over-sized and unwieldy Federal bureaucracy would always be wisely and fairly administered, the need for them, if it ever existed, has long since passed.

The purposes now claimed for them have been better served by processes springing from the people themselves than ever they can be by pressure and threat of punishment imposed upon the people by an omnipotent and omnipresent "big brother" sort of government.

Further more, the instruments now proposed to protect liberty and to uplift men are such as to be capable of being used to destroy liberty and to oppress men.

To appreciate the origin of the civil-rights bills and the natural resistance to them in many parts of the country, especially the South, one must consider them in their proper perspective with past history and present trends.

To put it bluntly, this legislation grows out of a latter-day extension of the overzealous efforts of the abolitionists, who profited and were exalted during the era preceding the War Between the States. It is being pushed in the same sort of spirit that motivated the vengeant and vindictive planners and executors of the Reconstruction.

Not even during the tragic and oppressive Reconstruction did a Congress, which was dominated by radicals and in which the conquered South had few friends and spokesmen, see fit to enact such laws as now proposed.

There was military occupation and corrupt government imposed from Washington, but there was no permanent board of inquisitors that could be turned into an agency of harassment and intimidation. There was injustice, but there was no permanent overturning of the processes of the courts.

Purged by bloodshed of the sin of slavery, which was not his alone, nor his country's alone, the southern white resisted the Reconstruction. He resisted it because he feared, with justification, that it was intended to take from him in order to give to the Negro. He resists court-decreed integration and the civil-rights proposals for the same reason—again with justification for his fears.

NEGRO IS MISLED

The Negro was misled in those days, and he is being misled now.

The end of the abominable institution of slavery was inevitable, and it could have been accomplished without fratricide and without threatening the Union and creating abiding bitterness. As its end, the Negro was led to believe he could switch from the status of slave to that of master. In some instances, for a time, he did. In others, he was promised "40 acres and a mule," but more often than not he didn't know what to do with the 40 acres and he never got the mule.

The Negro again is being falsely led to believe that integration will solve all of his remaining problems and that all he needs to realize the millennium is a few more court decrees and Federal laws. He has been led to believe that political largesse will bring to him those things that he can best realize by earning and exercising the rights and privileges already available to him.

Until fairly recent decades, southern whites and Negroes engaged in a pathetic sort of competition for the lesser degree of poverty, but they have made progress together and they have achieved a mutual understanding. Education and a rising prosperity were easing the old bitterness and misunderstanding and improving relations between the races at a rate that has been positively amazing.

The tragedy of this era is that, since 1954, with the Supreme Court decision in the school cases, and especially since the renewal of agitation of civil-rights legislation with almost virulent vigor, this progress has been slowed down. And the Negro stands to lose the most. The bitterness and the old suspicions are being revived.

A few years ago in a prosperous South Carolina industrial city, a joint committee of white and Negro citizens conducted a survey of the needs of the Negro community, ranging from health and housing to transportation and recreation. Much progress came of it.

Also, a few years ago, with the help of the newspapers and interested white citizens, certain racial barriers in the public hospital were broken down and qualified Negro doctors were granted staff privileges for the first time on full equality with their white colleagues.

Along about the same time, the newspapers and interested white citizens "campaigned" for better housing for Negroes. City "substandard housing" laws were strengthened and better enforcement machinery established. The improvement in rental property has been marked.

Also, it was urged that property be made available to Negroes of means who wanted to build better homes away from congested areas in which Negroes tend to congregate. Subsequently, a fairly "exclusive" Negro residential section, near white neighborhoods, was started. There were no objections.

PROGRESS IS SLOWED

This sort of thing would be more difficult now, if not impossible, in no small part because the Negro is reluctant to cooperate. Both he and his white friends are subject to pressure and unpleasantness from radical elements among their respective races. The Negro apparently has been led to believe the moon may be within his grasp; and lawless and more extreme whites have been aroused.

In many cities in the South, the newspapers have sought for years to treat the Negro with the dignity any citizen deserves in their handling of the news. Special sections devoted to news of the Negro community, often prepared by Negro reporters, were started. Until recently, there was no protest. Now there are murmurs, direct protests and anonymous letters.

None of this has to do with integration. Neither race is ready for integration, and may never be. But if they become so it will be on the only basis of successful close human association—natural affinity, mutual appreciation, and individual choice. Neither court decrees nor laws can create these conditions.

In his speech on conciliation with the American Colonies in 1775, Edmund Burke said, "I do not know the method of drawing up an indictment against an whole people."

With the help of the proposed legislation, and the injunctive process, the Federal courts may one day find such a method, but the result will be the destruction, not the preservation of civil rights.

Burke also said in his "Thoughts on the Cause of the Present Discontent" in 1770 that, "When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle."

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

The granting of the powers the Justice Department is now asking can only hasten this process. Even the layman can see that. The proposed commission, with power to investigate and harass at its own will could, in the wrong hands, become an instrument of coercion and intimidation.

Like other Americans, no southerner of good conscience condones the denial of rights, either by violation of the law or by threat or violence. But the atmosphere created by agitation is not only inciting lawless elements to violence, but is making such incidents even harder to deal with.

Of laws we have aplenty. The Federal Government has ample power to deal with the violations the Attorney General alleges but doesn't specify. The States

have laws against violence, and many of them, like South Carolina, have laws making violation of any citizen's rights a crime.

They should be left free to enforce them.

The CHAIRMAN. Yes, this will close these hearings. We have a statement from our colleague, Hon. Kenneth A. Roberts from Alabama, and that statement will be inserted in the record.

STATEMENT OF HON. KENNETH A. ROBERTS, MEMBER OF CONGRESS FROM THE FOURTH DISTRICT OF ALABAMA

Mr. Chairman, this committee has pending before it numerous bills generally classified as civil-rights proposals. In behalf of the residents of the Fourth District of Alabama, and in behalf of the future welfare of all the citizens of the United States, I urge the committee to reject these legislative measures.

If a measure similar to H. R. 627 of the 84th Congress should be reported by this committee and enacted into law, it would grant no right, no privilege, and no benefit to any citizen of the United States which he does not already possess. Such legislation would result, however, in a serious abrogation of certain rights. It would certainly destroy the bulwark of States rights, and along with this many individual rights would disappear. The enactment of civil-rights legislation now before the committee would result in sending a horde of investigators, traveling at the Nation's taxpayers' expense, to swarm across the Southland in search of a bona fide civil-rights complaint. The investigators of the proposed Civil Rights Commission would have the authority to subpena anyone from Maine to California and hold these persons under subpena at their own expense just upon the basis of some unconfirmed allegation. Shouldn't we also consider the rights of the person who might be subjected to the subpena?

A quick glance at a recent history shows that there are many, many crank complaints, and a bona fide complaint is a hard thing to find In 1940 8,000 civil-rights complaints were received. Prosecutions were recommended in 12 cases. This is 0.15 percent—less than two-tenths of 1 percent. In 1947, 13,000 complaints were received and prosecutions were undertaken in 12 cases. Convictions were secured in four cases. Four convictions out of 13,000 complaints is less than four-tenths of 1 percent. This is pretty poor returns for the time, money, and effort involved—if this area is as flagrant with abuses as so many professional liberals and vote-hungry politicians would like to have the public think.

I am sure this committee is well aware that the establishment of a Commission on Civil Rights is not unique The President could create such a commission if he so chose. It is the self-righteous, self-styled northern liberals clamoring for this legislation who wish to make the South its whipping boy in their frantic effort to gain the support of minority groups. During the debate on H. R. 627 in the House of Representatives, the Republican leader admonished his Republican colleagues not to call into the trap whereby the Republican Party could be publicly accused of having defeated civil-rights legislation. It would appear that the Republican Party was only thinking and acting in a manner so as to collect certain minority group-voting support in the November national election.

Mr. Chairman, my great concern is that, under the guise of civil rights, legislation is being proposed which could destroy many of the rights and privileges guaranteed all citizens by our Constitution. And I am sorry to say that I feel that our courts by their decisions also have been whittling away many States rights. We have seen this steady destructive trend since the Supreme Court school-segregation case of May 17, 1954.

Our Constitution was built upon the principle that Government derives its power from the consent of the governed. Men like Washington, Jefferson, Franklin, and Madison realized that our Nation was settled by peoples with conflicting interests. The individual Colonies were very zealous about retaining their rights, although they recognized the wisdom and necessity of banding together in order to survive. The new Republic was to constitute a dual system of sovereignty with the Federal Government supreme in its proper sphere and the State supreme in its proper sphere. The States certainly expected to be supreme in all local matters and problems.

The political implications of the Supreme Court school-case decision were made very clear when the Vice President addressing a big Republican Party dinner in February 1956 stated: "Speaking for a unanimuos Supreme Court, a great Republican Chief Justice, Earl Warren, has orered an end to racial

segregation in the Nation's public schools." Since this decision we have seen a steady encroachment upon States' rights to control their own local matters This has been accomplished through our courts, which are amending the Constitution by decision. In the decision rendered January 16, 1956, *Danton George Reo v United States of America*, the Supreme Court upheld the authority of the Federal courts to enjoin a Federal Government executive department officer from testifying in the courts of the State of New Mexico in a criminal prosecution of one charged with a violation of a statute of that State prohibiting the possession of marihuana. By this decision the Court assumed the power to direct the activities of Federal Government executive officers to the extent of forbidding them from testifying as to matters within their knowledge in a case where no question of privilege or national security was involved.

The Supreme Court, in its decision rendered April 2, 1956, *Commonwealth of Pennsylvania v Steve Nelson*, held that so long as the present Federal law for sedition exists, the States cannot enforce their own State sedition laws. In the case of *Harry Slochower v. Board of Higher Education of the City of New York*, the Supreme Court held invalid a charter provision of New York City designed to provide for the removal of public employees deemed by the city unfit to be entrusted with the governmental administration of the city.

Unfortunately there are many more decisions which can be cited which indicate how seriously States rights are being diminished Should the proposed civil-rights legislation be enacted, it will be a still greater move in the direction to destroy the individual States rights to control their own local problems. Under the proposed civil-rights measures, it would not even be necessary to exhaust State remedies before the Federal Government took over.

I again urge the committee to reject the proposed civil-rights legislation lest we find out too late we have used a cure far more deadly and injurious than the disease It would only be a matter of time before all individual rights are subjugated to a powerful Federal Government controlled by a few men and most likely a judicial oligarchy under which the States and the executive and legislative department of the Federal Government may exercise only such powers as the Federal judiciary wishes them to exercise.

The CHAIRMAN. We also have statements by our colleague, John J. Riley, of South Carolina, which we will insert in the record, and the statement of Mr. Wayne W. Freeman, editor of the Greenville News, Greenville, S. C., has been inserted by the previous witness.

STATEMENT BY THE HONORABLE JOHN J. RILEY, MEMBER OF CONGRESS FROM THE SECOND DISTRICT OF SOUTH CAROLINA

Mr Chairman and members of the subcommittee, I appreciate very much this opportunity to present my views on the proposed legislation now before you. While I doubt that I can add anything new to the many arguments advanced in opposition to these measures, I feel that I must take advantage of this opportunity to register my protest against all such bills. The ground has been well covered, but I wish to emphasize a few of the principal objections.

These bills strike at the very heart of constitutional government and, if enacted, will give aid and comfort only to those who seem to believe that the 10th amendment to the Constitution was, in effect, repealed by the 14th amendment Every new assault upon the rights of the States seems to sail under the banner of the 14th amendment, the scope of which is ever being widened by the legislative decisions of a politically minded Supreme Court. One is inescapably faced with the conclusion that these bills are the rallying point for the final assault upon the rights of the sovereign States

You are aware that many of us feel that these measures represent an effort to capture the Negro vote in the metropolitan centers of the North. I share that view If enacted, and only a miracle it seems can prevent these measures being forced upon us, the propaganda from the the headquarters of both major parties will be supercharged with claims of credit for the enactment of these measures

The effect of these bills will be to destroy the good relations that have long existed between the races in my State. For every news story adverse to the South that is headlined throughout the United States by a so-called free press, there are thousands of acts of mutual kindness that are never seen in print.

Negroes vote freely and in large numbers in my State. Payment of poll tax, a nominal amount of $1 a year, is no longer a requirement for voting. Negro

schools are in most instances superior to white schools. Acting on our own initiative, we have made great strides in the improvement of relations between the races. If left alone, this progress will continue.

Although the measures here are commonly referred to as "civil rights bills" they will not, in my opinion, create any new civil rights but will actually annihilate one of the most precious of all rights. I refer to the trial by jury. These bills would substitute for this the John Doe injunction which we have recently seen employed in the Clinton, Tenn., case. As bad as this instance is, it is mild compared to what we can expect under these bills. Here we see authority for the Attorney General to seek an injunction because he believes an individual is "about to engage in" certain activities. No criterion for the basis of this belief is established, and we must assume that all Attorneys General henceforth will be mindreaders. The dangers inherent in this procedure are obvious even in the hands of a fairminded individual. In the hands of a politically minded Attorney General, the dangers are overwhelming and beyond comprehension. We find here, hand in hand, an assault not only upon the rights of the States but also upon the most sacred principles of American jurisprudence. And for what? The winning of votes. Yes; it will win you votes temporarily. But it will destroy the foundations of the greatest government mankind has ever devised.

I am sure that I do not have to remind the committee of the many recent race riots and incidents in the North, such as the Lake Erie riot and the present disturbance in Michigan because a Negro family moved into a white neighborhood. Nor do I have to remind the committee of the recent labor incident in the Midwest in which a baby was shot in his crib. I am sure that these events rest heavily on the hearts of the members of the committee. But I must point out that all the statutes on the books of those States did not prevent these incidents. And none that you write in this committee will improve race relations one iota. Such relations are improved only by mutual cooperation and understanding. These bills will drive such a wedge between the races as to make such cooperation and understanding impossible.

STATEMENT OF CARL ELLIOTT, MEMBER OF CONGRESS FROM THE SEVENTH DISTRICT OF ALABAMA

Mr. Chairman, I sincerely appreciate this opportunity to give my views on the civil-rights legislation now under consideration by this subcommittee.

I understand that some 50 civil-rights bills have been referred to your subcommittee. However, I will confine my remarks to the bill by Mr. Keating, H. R. 1151, which embraces the recommendations made by the administration and has essentially the same provisions as H. R. 627 which passed the House of Representatives during the 2d session of the 84th Congress.

I opposed then, and I oppose now, enactment of legislation to expand the Federal authority over these matters which have historically been within the jurisdiction of the States and their citizens.

Part I of H. R 1151 proposes to establish a Commission on Civil Rights. Congress is being asked to create a commission over which it will have no control, which is not required by law to report to the Congress, and which will have the power to subpena witnesses—a power which is seldom used by the Congress, and given to only three of its own committees.

If a citizen refuses to obey a subpena, H. R. 1151 provides that the United States district court can order that person to appear before the Commission "to produce evidence, if so ordered, or give testimony touching the matter under investigation." Any citizen failing to obey such an order of the court may be held in contempt of court.

And what is the duty of this Commission? In the words of the bill itself, it will "investigate the allegations" that certain citizens are deprived of their right to vote, and investigate "allegations" concerning the exercise of "unwarranted economic pressure" by reason of race, religion, color, or national origin.

This Commission, to be appointed by the President and set up in the executive branch of the Federal Government, would, in effect, have jurisdiction over the right of suffrage and would have the power and duty to investigate "allegations" which might come under the broad and undefined category of "unwarranted" economic pressure. The Commission would have the duty to investigate these allegations, or rumors, if you please, with no restraints other than their own

individual definitions of what actually constitutes unwarranted economic pressure. Establishment of such a Federal Commission would strike another blow at the time-honored concept of States rights.

There is today already on our books statute after statute for the protection of the civil rights of every individual in this country. This subcommittee heard a few days ago the testimony of the attorney general and the assistant attorney general from my own State of Alabama. They told this subcommittee that the State of Alabama has ample authority to protect and enforce the voting rights of its citizens They testified that any citizen of the State of Alabama, irrespective of race, color, religion, or national origin, has the right, under law, to register and to vote. By the same token, if any citizen is denied the right to vote, he can file suit in the circuit courts of Alabama, and he further has the right to appeal any adverse decision to the State supreme court and by due process to the United States Supreme Court. Attorney General Patterson testified that no complaints have been filed and no suits are pending in the State of Alabama to indicate that persons have been denied their right to vote.

The right to vote is fundamental to our concept of democratic government, and it is indeed one of the most important rights that any American citizen possesses. However, that right should be protected by means which are consistent with the fundamental principles set forth in the Constitution. Historically, traditionally, and, I believe, rightly so and in accordance with the Constitution, the right to vote is recognized as a matter to be controlled and regulated by State statute.

Instead of protecting those whom it seeks to protect, this legislation will, in my opinion, set a dangerous precedent and will ultimately endanger the rights of all people.

Part III of H. R. 1151 will give extensive powers to the Attorney General of the United States. He could, under this bill, initiate proceedings against citizens who are "about to engage in any act or practices which would give rise to a cause of action pursuant to the first three paragraphs of section 1980 of the revised statutes." The Attorney General could proceed whether the alleged victim wished it or not—and even though the aggrieved parties had failed to exhaust State remedies already available to them. I feel certain that no Attorney General has ever had such broad powers, and this law would go further in that direction than any statute ever enacted in the United States. Mr. Chairman, I am opposed to granting such broad power to any one individual, and especially to the Attorney General of the United States who is a political appointee and whose office is not directly responsible to the voters of this country.

Mr. Chairman, it has been said that this legislation is directed toward the South—that it is "sectional" legislation—and that it is designed to tear down the social customs and mores of the South While I do not impugn the motives and the sincerity of those of you who sponsor this legislation, I do urge that you give serious consideration to the conditions that are now existing in the Southland. You know as well as I of the tension and strife that have come as a result of the Supreme Court decisions ordering integration in the public schools and abolishing segregation on public-transportation facilities. I implore you to take note of these conditions and to cease your efforts to enact legislation which I am sure will serve only to agitate and generate more trouble, discord, tension, strife—and, yes, even violence—between the white and colored peoples of the South. Thank you, very much.

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 26, 1957.

HON. EMANUEL CELLER,
Chairman, Subcommittee No. 5, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR CHAIRMAN: I had originally intended to ask permission to appear in person before your subcommittee to testify in favor of the early enactment by the Congress of a sound, constructive program in the field of civil rights. Such a program is needed to assure to all Americans the full enjoyment of the basic rights guaranteed to them under the Constitution without discrimination on the basis of race, color, or religion.

However, rather than in any wise delay even briefly what I hope will be early and favorable action by your subcommittee on such a program, I am now submitting my statement for inclusion in the record of your hearings. You may be assured that the earnestness and sincerity of my desire and support for action in this field is no less because I do not now appear in person.

But already we have equivocated, we have compromised, we have delayed too long in making a reality for all Americans equality before the law, equality at the polling place, equality of opportunity—which are the rightful possessions of every American.

The enjoyment, in full and without discrimination, of civil rights is the birthright of each American. They are not boons to be conferred or withheld at will. They are recognized under the Federal Constitution—their ultimate protection must be a Federal responsibility.

In reality, your subcommittee is now being called upon not to grant civil rights, but to eradicate civil wrongs.

I shall not dwell at length on the specific proposals for remedial legislation now before this subcommittee, not only during this session of the 85th Congress, but during many past Congresses. What you are being asked to do is to strengthen the administrative machinery by which the Federal Government can enforce the rights that every citizen already possesses. If some jurisdictions are reluctant to protect these rights for all without discrimination, this certainly does not mean that the rights are any the less inalienable.

The real need is for leadership, Federal leadership. We need more than words, we need action. I believe that the enactment by this Congress of a sound civil-rights program is essential for the restoration of American prestige at home and abroad. Such action would not be futile, but would, instead, have a highly salutary result.

Let us not make of this issue a sectional one. We have discovered in recent months that resistance to school integration, as in Clinton, Tenn., was the result of intervention of a tiny minority of bigots, and that it went directly counter to the feelings of most of the law-abiding people of Clinton. We are, I hope, Americans first and sectionalists last. The Bill of Rights is not an on again, off again document. It speaks for all and to all Americans. The rights it proclaims are to be enjoyed by all, and are not recognized as enjoyable at the sufferance of the few, or even of the many. America cannot profess to the world its adherence to the basic tenets of democracy, while denying to some of its citizens the full enjoyment of those rights, solely on the basis of race, color, or religion.

The time for action is upon us now. We cannot delay the swift stream of events any longer. This subcommittee has a fateful responsibility which it must exercise with statesmanship and courage.

I hope, therefore, that you will, with all speed, report favorably on a sound program to insure the full enjoyment by all Americans of their constitutional guaranties without discrimination. And I hope further, that such a program will be enacted by the 1st session of the 85th Congress as proof positive to all Americans and to the world that America does keep faith and is concerned with the protection of fundamental human rights and freedom.

I am requesting that this statement be made a part of the record of the hearings held by your subcommittee on the various civil-rights proposals.

Sincerely yours,

EDITH GREEN.

STATEMENT IN SUPPORT OF CIVIL RIGHTS LEGISLATION SUBMITTED BY THE UNITED STATES SECTION OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

(Prepared by Mrs. Dorothy Hutchinson, Member, National Board)

The Women's International League for Peace and Freedom, believing that peace in the United States and in the world is inseparable from the protection of individual rights and freedom, is gratified whenever legislation is designed to secure and protect the civil rights of United States citizens. We are encouraged to note that more than 45 bills on this subject have recently been introduced in Congress which indicates that, if hearings on these bills can be expedited, there may be a better chance than ever before to assure the passage of civil-rights legislation this session of Congress.

Hitherto the failure to protect adequately the civil rights of our Negro citizens has permitted flagrant injustices which have filled decent Americans with shame and have dangerously undermined America's world reputation as the leader among the nations of the so-called free world. There is, therefore, no time to be lost in improving our practice of the democracy we preach.

The Women's International League for Peace and Freedom believes that there are several interrelated areas where civil-rights legislation is needed:

(1) The right to vote freely and secretly for political candidates is basic to all other rights. We Americans see and say clearly that failure to insure this right is the basic evil of totalitarianism. We must, therefore, realize that our own Nation cannot claim to be a properly functioning democracy so long as any of our citizens are denied the right to vote or in any way intimidated or interfered with in their free exercise of that right.

(2) The right to protection of life and limb, free from injury or threat of injury, whether it be one accused of crime, a uniformed member of the Armed Forces, or an innocent bystander, whether a Negro in Montgomery or Boston, a Chinese or Japanese in California, a Mexican in Arizona—all should be secure from injury to their person or property which may be inflicted by reason of race, creed, color, national origin, ancestry, or religion, or imposed in disregard of the orderly processes of law. As a number of bills before this committee point out such protection is necessary to secure the rights, privileges, and immunities provided by the Constitution, to safeguard our form of government in the various States, and to promote respect for human rights and fundamental freedoms for all in accordance with our obligations under the United Nations Charter.

(3) The right to employment on the basis of one's qualifications for the job and the right of receiving equal wages for equal work is also basic. A minority group which is generally debarred from all but menial jobs or is paid less than other workers who do equivalent work, suffers an economic disadvantage which prevents improvement in its health and educational status or the decrease in crime and delinquency which accompany poverty, ill health, and ignorance. Thus subtly but surely our national well-being is undermined.

(4) The right to share fully in public educational facilities; public health and hospital facilities; public transportation facilities; public recreational facilities must also be insured to all citizens. All citizens are subject to the same tax laws and none can justly be deprived of the benefits provided by the expenditure of these taxes. The Supreme Court decisions regarding the unconstitutionality of segregation in the public schools of the Nation and in the buses of Montgomery, Ala., were heartening steps in the right direction. Their implementation and the broadening of the application of the constitutional principles involved to include the other areas listed above should be included in current legislative bills dealing with civil rights.

(5) The right to buy land and to buy or rent homes in whatever location one's income and tastes permit should also be insured to every American. However, at the present time, housing available to Negroes is so scarce and of such poor quality that crowding and lack of sanitary facilities are a health hazard to the Negroes themselves and also to the communities in which they live. And the inability of Negroes of high educational and economic status to obtain suitable housing is a scandal.

The Women's International League for Peace and Freedom wishes to call attention to the interrelationships of the political, economic, educational, transportation, health, recreational and housing rights detailed above and to point out that none of them can properly be ignored by a Nation which calls itself a democracy.

We also call to your attention that the Negro citizens of Montgomery, Ala., because of the lack of necessary judicial and legislative guaranties of their rights, over a year ago undertook a militant but dignified and completely nonviolent campaign for less discriminatory seating practices on the public buses. Their demands were more than supported by the subsequent Supreme Court decision declaring unconstitutional all segregation on Montgomery buses. But hideous acts of violence perpetrated by white citizens of Montgomery against the leaders of the bus boycott have gone unpunished. We feel a profound admiration for the method which the Negroes of Montgomery have used to achieve their rights without resort to hate or violence and with amazingly consistent adherence to the technique of Gandhi and the loving spirit of Jesus Christ.

We recognize the importance of encouraging local and state authorities to undertake the needed improvements in the protection of civil rights, and we recognize also the importance of the timing of such Federal action as may be needed. But it is clear that the Montgomery bus boycott is symptomatic of the determination of the American Negro not to wait indefinitely for his rights as a first-class citizen and that legislative recognition of this fact is already overdue.

In closing, we emphatically remind you that the whole world is watching the American Negro's struggle for his civil rights. Money contributions have come

from all over the world to aid the bus boycott in Montgomery. The press of the whole world has carried stories of the boycott's progress, the violence used against the boycotters, the Supreme Court decision against bus segregation and the violence of whites against Negroes which followed the attempt to integrate the buses.

Two-thirds of the world's population is colored. How quickly and effectively we act to guarantee the civil rights of our colored citizens will determine our moral standing in the international community. So we need civil rights legislation not only to satisfy our own consciences but also to prevent the development of world cynicism about our professions of democracy.

The Women's International League for Peace and Freedom, therefore, heartily approves current proposed legislation setting up a Commission on Civil Rights to study their present status and ways to improve legislation in this area.

The minimum we seek are those measures embodied in H. R. 1151, providing for an additional Assistant Attorney General, establishing a bipartisan commission on civil rights in the executive branch of the Government, providing means of further securing and protecting the right to vote and strengthening civil-rights statutes. However, we much prefer the provisions of the Celler bill, H. R. 2145, because they come nearer to covering all of the five points mentioned above. We hope the full Judiciary Committee will report the bills promptly and make every effort to get a satisfactory rule for early floor action, so that the matter may quickly reach the hands of the Senate.

The CHAIRMAN. The record will be held open until midnight tonight for statements that people might wish to submit to be included in the record.

As Chairman, I want to express my appreciation to my colleagues of the committee for their honest cooperation and attendance at the many hearings which have been held, and also for their great patience.

Mr. KEATING. I must say, Mr. Chairman, that you have been very fair, and there has been full opportunity for hearings. We have had some very interesting and enlightening testimony here today in regard to the better protection of civil rights.

The CHAIRMAN. Thank you very much. The hearings for today are closed and the hearings for this session on these bills are closed.

(Thereupon, at 4:10 p. m., the hearings on the civil-rights bills were concluded.)

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