Mr. ANDERSON. The Senator from Colorado has been very helpful in regard to these matters.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 8437) was ordered to a third reading, read the third time, and passed.

Mr. JOHNSON of Texas. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ANDERSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF BANKRUPTCY ACT, RELATING TO VERIFICATION OF PLEADINGS

Mr. EASTLAND. Mr. President, I ask that the Chair lay before the Senate the message from the House on the bill S. 1944 to amend the Bankruptcy Act in regard to the verification of pleadings.

The PRESIDING OFFICER (Mr. CANNON in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 1944) to amend the Bankruptcy Act in regard to the verification of pleadings, which was, to strike out all after the enacting clause and insert:

That subdivision c of section 18 of the Bankruptcy Act is amended to read as follows: "c. Petitions for both voluntary and involuntary bankruptcy shall be verified under oath."

Mr. EASTLAND. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

MUTUAL SECURITY APPROPRIATIONS, 1960

Mr. JOHNSON of Texas. Mr. President, I move that the Senate resume the consideration of House bill 8385, the mutual security bill, which was displaced a moment ago when I moved that the Senate proceed to the consideration of another bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (H.R. 8385) making appropriations for mutual security and related agencies for the fiscal year ending June 30, 1960, and for other purposes.

Mr. THURMOND. Mr. President, I am convinced beyond any shadow of a doubt that the Senate is making no contribution to the welfare of the country by even considering an extension of the Civil Rights Commission. The consideration of such an extension would have been even more unfortunate had it been undertaken without having available to us the report of the Civil Rights Commission.

In reading the report of this Commission, Senators should keep in mind that this is the report of a commission which was promoted as a group which would deal exclusively with voting rights. I do not believe that any of us were deceived in 1957, and I know that I was not so deceived. The Commission has, of course, presumed to enter into a discussion of race relations in the fields of education and housing, as well as voting. Obviously, the information on which the Commissioners base their discussion could not be dignified by calling it a study.

I shall review briefly what I can only describe as the illogical ramblings and babblings of unsound thinking; and from time to time, I shall also note with pleasure that there are those among the Commissioners who indicate by their individual opinions and statements contained in the report that they, unlike the staff and the other Commissioners, have not completely lost touch with reality.

In the field of voting the Commission made a total of five so-called findings and recommendations. I shall merely note at this point that Commissioner Battle's dissent on all five findings and recommendations indicates that the Commission was not without a rational thinker among its group, had it chosen to follow the leadership of good judgment and clear thinking.

The first finding of the Commission in the field of voting is believable to me. Obviously, the Commissioners who joined in the remaining findings and recommendations in the voting area did not believe it themselves, however, for if they had, they could have drawn no conclusions whatsoever—much less any recommendations.

I quote the first two sentences of the first finding of the Commission:

The Commission finds that there is a general deficiency of information pertinent to the phenomenon of nonvoting. There is a general lack of reliable information on voting according to race, color, or national origin, and there is no single repository of the fragmentary information available.

It is obvious that if one believes that this finding of the Commission is correct, it would be senseless to attach any credibility to any additional part of the Commission's report on voting.

The Commission recommends that the Bureau of Census undertake a nationwide compilation of registration and voting statistics to include a count of individuals by race, color, and national origin who are registered and the frequence of their voting in the past 10 years.

Mr. President, I heartily endorse this recommendation. I do not believe that anyone could conceive of a more practical and a more suitable replacement for the Civil Rights Commission than the census suggested by the Commission itself. It should be quite apparent that until the information which the Commission finds to be practically nonexistent can be compiled, no sensible study nor logical conclusion can be accomplished.

Mr. President, had the Commission stopped at this point in its report, it would have accomplished more good than I have ever conceived that it could do. I say this with full awareness that the Commission's conclusion, arrived at after 2 years of existence, could have been reached by any logical man after a few casual inquiries. Unfortunately, the Commission did not stop at this point; and in the remainder of the report, those of the Commission who advance specific proposals confirm beyond a doubt that this Commission has contributed and is contributing more to racial unrest, tension, and bad relations than any other force or factor which has been conceived by Congress in modern times.

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

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Mississippi.

Mr. EASTLAND. The distinguished Senator has said that the Commission has caused unrest. The distinguished Senator knows that when the Commissioners' nominations were being considered, for confirmation, the Commissioners testified that they had no authority to make recommendations in the field of education, yet they have pointed the finger at the South. Does the Senator agree with that statement?

Mr. THURMOND. The Senator is eminently correct. Everyone knows that the jurisdiction of the Commission, so to speak, is to be confined to voting, but the Commission has gone into sundry other fields.

Mr. EASTLAND. In fact, the report is a very highly prejudiced and a dishonest report against the Southern States. Would the Senator agree with that statement?

Mr. THURMOND. The Senator from South Carolina concurs wholeheartedly with the statement of the distinguished Senator from Mississippi.

Mr. EASTLAND. I should like to read to the Senator an Associated Press dispatch from New York City, which came over the wire this afternoon:

SEPTEMBER 14, 1959.

NEW YORK.—Picketing, and a stay-at-home boycott by at least a fourth of the white pupils in the Glendale-Ridgewood area of Queens, greeted the arrival today of Negro and Puerto Rican pupils transferred from Brooklyn.

In addition large signs saying "blacks go home" appeared in front of one school during the night. They were painted out before the students from Brooklyn's poverty-stricken Bedford-Stuyvesant area arrived in the school for opening day.

Most of the 363 pupils scheduled for transfer showed up, and they entered the five schools involved without difficulty. White parents picketed in front of three of the schools, however.

The schools are in an almost entirely white area of Queens, and had a total registration of about 2,300 excluding the transfers from Brooklyn. More than 900 pupils stayed at home, authorities estimated.

That shows that the question of school integration is national in scope, and that white people all over the country are determined to maintain their racial identity and oppose politicians who would destroy the white race in this country. Does the Senator agree with that statement?

Mr. THURMOND. The Senator is eminently correct. However, if New York or any other State wishes to have integration, I think that is a prerogative of the particular State.

Mr. EASTLAND. Does not this dispatch show that New York does not

want integration? Is not that one of the points brought out by the dispatch?

Mr. THURMOND. The dispatch clearly shows that. However, the point I make is that the people of South Carolina should not attempt to dictate to the people of any other State, whether they want integration or segregation. On the other hand, we do not want to be dictated to, as to what we shall do in South Carolina. We think it is our prerogative under the Constitution to have integration if we want it, or to have segregation if we want it. If our people choose segregation, as they have done, we feel that as a sovereign State we have the right do do it.

Mr. EASTLAND. Is it not true that in the North, in large measure there is defacto segregation?

Mr. THURMOND. That is my understanding of the situation; and from the news items I have been reading recently, undoubtedly that is the case.

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

Mr. THURMOND. I am pleased to yield to the distinguished Senator from New York.

Mr. JAVITS. I thank my colleague for his always unfailing courtesy. I doubt very much whether I, or anyone else who thinks as I do, could persuade our distinguished colleague from Mississippi to change his views.

Also I doubt very much whether his assertion that the people of the State of New York want segregation in their public schools will be accepted as a conclusive finding of fact. I am confident that we shall have ample opportunity to show the facts in detail as to New York.

We have argued this question many times before. I do not see much point in raising the argument again, but I could not stand by when the statement was made in my hearing, and allow it to stand.

Mr. EASTLAND. The point is that the distinguished Senator from New York should attend to his own knitting in New York State, and not attempt to export New York's deplorable social conditions into areas where peace and harmoney prevail. He has plenty to do in Brooklyn, Queens, the Bronx, and Harlem, instead of picking on people who have harmonious racial relations.

Mr. THURMOND. In reply to the Senator from Mississippi, I must say that from all the news items I have been reading in newspapers from New York, it would appear that there is a great opportunity up there for missionary work to be done in certain quarters. I presume that all States have their weaknesses, and that New York is not the only State, but from the items in the newspapers, I am sure that there is a vast field there for a great deal of good work to be done.

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

Mr. THURMOND. I yield to the distinguished Senator from New York.

Mr. JAVITS. I assure the Senator that my devout wish would be that the distinguished Senator from Mississippi would be working at cultivating the great field in his State as assidiously as I—and, I am confident, my colleague, Mr. KEATING—are working at cultivating the same field in our State.

It is a fact, as the Senator from Mississippi and the Senator from South Carolina have pointed out, that this is a national question, just as foreign policy, highways, and a dozen other things are national questions upon which we must legislate. The Senator from Mississippi and the Senator from South Carolina feel a certain way about civil rights; and any of us would die in defense of their right to express their views, a right which all Senators enjoy.

Mr. THURMOND. I wonder if I can make the Senator from New York a proposal. Inasmuch as he feels that we have so many shortcomings in the South, and the newspapers show that there are so many of them in his own State, I wonder if we could agree that he go back to his State and take care of his problems, and allow us in the South to take care of our problems. We assure him that we will not disturb or interrupt him in any way whatsoever, or cast any reflections on the way he handles his local problems, if he will give us the same assurance.

Mr. JAVITS. I trust that question was settled forever by the heroes in both blue and gray, from 1861 to 1865. I abide by their verdict.

Mr. THURMOND. In reply, let me say that the question was settled when the Constitution was written. The Constitution of the United States provided that all powers not delegated to the Federal Government are reserved to the States. The field of education has never been delegated to the Federal Government, and many other fields have not. Therefore, they are reserved to the States, and they are still within the jurisdiction of the States. We expect to follow the Constitution.

Mr. JAVITS. Mr. President, will the Senator further yield?

Mr. THURMOND. I am happy to yield to the Senator from New York.

Mr. JAVITS. I think we will agree that the 14th amendment is a part of the Constitution. That amendment gives every citizen equal protection under the law—in education and in every other phase of human activity that comes within that fundamental charter That amendment is just as much a part of the Constitution as that part which was adopted by the Founding Fathers in the latter part of the 18th century.

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

Mr. THURMOND. I am pleased to yield.

Mr. EASTLAND. Does it not seem to the Senator that, inasmuch as South Carolina has peace and harmony, with no gangs roaming the streets indulging in knifings, cuttings, murder, rape, crimes of violence, and filth, the Senator from New York should devote his attention to correcting the deplorable condition in his own State, among his own people, rather than taking this floor day in day in and day out and telling what the South is doing. He tells us that the South does this, or the South does that. There has not been a word about juvenile delinquency, murder, and rape in his own neighborhood, in his own town.

Mr. THURMOND. In reply to the Senator from Mississippi, I think it is clear that down South we are having no racial disorders. We are having no racial tensions. We are not having crime or juvenile delinquency. We have a segregated life which both races enjoy.

Mr. EASTLAND. Is not the segregated way of life a better life? Is not that the law of nature?

Mr. THURMOND. Well, that is the way God made the races. I presume it is.

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

Mr. THURMOND. At the same time under the Constitution—and I am fighting for constitutional government—under the Constitution I believe New York has a right to have integration if it wants it. The only thing I want New York to do is to let South Carolina alone. We will let New York have its integration. They can integrate just as much as they want to if they will just let us alone in South Carolina. Our people are happy. Both races are happy. Our schools are just as good for the colored race as for the white race.

We have just as good schoolbuses. We pay the teachers the same, and the opportunities are equal. We are doing everything we can. The Negroes in my State vote. All who are qualified there vote, and there is a big vote among the Negro people.

We treat the Negro people right. We get along with them well; but if other people from other sections are going to send agitators down there to start trouble, I can visualize that in the future we could have trouble.

We are just hoping that the States which are now having trouble will not go jumping on the South and trying to hide their own troubles at home. We cannot help but feel that some people from other States who are jumping on the civil rights bill and who claim they are fighting for civil rights are forgetting their own dastardly conditions right in their own backyards.

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

Mr. THURMOND. I will be pleased to yield to the Senator from New York.

Mr. JAVITS. Mr. President, the other points which have been made by the Senator from Mississippi and the Senator from South Carolina have been argued many times on the floor, and they will be again. I do not have to repeat those arguments. But I am very much interested in what I consider to be quite a red herring drawn across this trail—the rapes and the murders and the terrible things that are going on in New York.

Mr. President, this would be a rather interesting argument even though slightly rhetorical, if it were true. However, very unfortunately for that position, the facts are just the other way. "The Uniform Crime Reports for the United States," published by the Federal Bureau of Investigation, show that the ratio per hundred thousand of offenses committted in many of the Southern States far exceeds the ratio of those offenses—and they include all of the of-

fenses mentioned by my colleague from Mississippi—in New York.

We are not proud of the ratio we have, but we are not calling any other States which have a worse problem names. We are terribly sorry about it. We are ashamed of it for ourselves. We are ashamed of it for the whole Nation. But it is certainly no valid argument against the points we are making, especially when it is just not so upon the facts.

I ask unanimous consent to have printed in the RECORD at this point a table entitled "Index of Crimes by Standard Metropolitan Areas," from "Uniform Crime Reports," issued by the Federal Bureau of Investigation, September 2, 1959.

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

Index of crimes by standard metropolitan areas from "Uniform Crime Reports," issued by the Federal Bureau of Investigation September 2, 1959

[Rate per 100,000]

New York-northern New Jersey	1,145.3
(All cities listed for the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Virginia.)	
Asheville, N.C.	1,006.5
Atlanta, Ga.	812.0
Birmingham, Ala.	[1] 1,212.2
Charleston, S.C.	[1] 1,382.8
Charlotte, N.C.	[1] 1,462.2
Columbia, S.C.	[1] 1,365.2
Columbus, Ga.	816.5
Durham, N.C.	669.2
Fort Smith, Ark.	794.1
Gadsden, Ala.	762.4
Greensboro-High Point, N.C.	749.7
Greenville, S.C.	[1] 1,419.9
Hampton-Newport News-Warwick, Va.	[1] 1,540.3
Jackson, Miss.	593.4
Jacksonville, Fla.	[1] 2,004.4
Little Rock-North Little Rock, Ark.	[1] 1,570.3
Macon, Ga.	1,049.5
Miami, Fla.	[1] 2,303.3
Mobile, Ala.	[1] 1,162.9
Montgomery, Ala.	1,078.6
New Orleans, La.	[1] 1,720.7
Norfolk-Portsmouth, Va.	[1] 1,609.1
Orlando, Fla.	[1] 1,544.6
Pensacola, Fla.	[1] 1,784.7
Raleigh, N.C.	[1] 1,400.8
Richmond, Va.	[1] 1,325.9
Savannah, Ga.	[1] 1,675.4
Shreveport, La.	760.0
Tampa-St. Petersburg, Fla.	[1] 1,320.3
West Palm Beach, Fla.	1,080.0
Winston-Salem, N.C.	802.6

[1] Exceded by.

Mr. JAVITS. Mr. President, the facts are—and I offer them for the RECORD—that in a long list of cities, comparing the ration in other cities with the New York and northern New Jersey area, the rate per hundred thousand of offenses in New York and northern New Jersey was 1,145. The ratio in a whole list of cities in South Carolina—and I will not embarrass my colleague by reading the names of the cities—because I do not believe this is to the point——

Mr. THURMOND. The Senator cannot embarrass me, because our cities are the finest cities in the world. People in our cities can walk the streets in safety. Women can go out at night without being raped.

Mr. JAVITS. I believe that is true in New York, too, and the facts bear it out. If the Senator wishes me to say it, in Charleston, S.C., the rate is 1,382, as against 1,145 in New York. In Columbia, S.C., the rate is 1,365. In Greenville it is 1,419; and so on.

Mr. President, as I said, I am not making this point. I do not believe it has any bearing upon our situation. I am only pointing out that it is not an argument the other way, either. Whatever may be the reasons for the crime statistics, I am just as much ashamed of them for my own city as I am for any city in the country. All of us have full responsibility for it. It is nevertheless a fact that it should not be dragged across this discussion on civil rights, on States rights, or on the constitutional points we have been arguing, when it is not borne out by the facts.

Mr. THURMOND. We have some crime, I am sure, in our State, as any State has. Of course we have some military installations there, and people do come there from other States, from the North and other places, and our people are so friendly with them that probably they are not as tight with these people in punishing them for crime as they should be. But we are glad to have these folks down there from other sections. We welcome them, and we hope in the future that they will learn to conduct themselves as well as our own people. [Laughter.]

Mr. EASTLAND. Of course the distinguished Senator knows that the crime rate is due to the large proportion we have of one race to the other race in the South. That is true, is it not?

Mr. THURMOND. If the Senator will look at the record, I think he will find that is probably so.

Mr. EASTLAND. The point I am getting at is that the Senator from New York has made a statement on the floor of the Senate and he has arraigned the Southern States and the Southern people time and time again, but he has never attempted to clean up his own back yard.

Mr. THURMOND. I think the record will show among which race crimes are committed, but I say that the crime rate in the Southern States is certainly a low rate of crime. However, I still say that no one is in jeopardy in riding on the highways in our State as compared to some States. No one is in jeopardy in walking on the streets compared with some States, or when going to church or going to school; and even among the children in the schools we do not have the trouble that some other States have.

Mr. EASTLAND. Will the Senator yield for a question? How many gangs are there in South Carolina?

Mr. THURMOND. I do not know of any gangs in my State.

Mr. EASTLAND. How many juvenile gangs are there in South Carolina?

Mr. THURMOND. I have not read about any in the newspapers.

Mr. EASTLAND. As a matter of fact, the Senator knows that there are no juvenile gangs.

Mr. THURMOND. There are none that I know of in my State, and if there were any, I am sure there would have been articles in the newspapers about it.

Mr. EASTLAND. How many times in the State of South Carolina today in the schools do the police patrol the corridors of the schools to prevent violence and rape? Is there a single instance of that in the State of South Carolina?

Mr. THURMOND. There is not a school in South Carolina that has a policeman in it to maintain order, or that has had to place a policeman in it to maintain order.

Mr. EASTLAND. How many rapes have there been in the schools of South Carolina?

Mr. THURMOND. None.

Mr. EASTLAND. How does that compare with New York State?

Mr. THURMOND. Oh, I would be afraid to state. That would cause embarrassment to some people I know. [Laughter.]

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

Mr. THURMOND. I will be pleased to yield to the Senator from New York.

Mr. JAVITS. One thing might be very interesting, based upon what the Senator from Mississippi has just said about the density of the races in these States. According to my recollection, in his own State of Mississippi there is the largest proportion of Negroes to whites in any Southern State, and yet from the analysis which I have, there is one Mississippi city here—and I believe it is quite indicative of the State—in which the crime rate is very low. Indeed, the crime rate there is much lower than it is in the New York-New Jersey area.

Mr. EASTLAND. Mr. President, will the Senator yield? That is exactly what I have been saying. The crime rate there is lower because it is a segregated society.

Mr. JAVITS. Well, the crime rate in other segregated societies is so much higher that it more than makes up for it.

Mr. President, I have never used the crime rate as a reason for arguing against a segregated society. I have used the Constitution, the moral right, the economic and moral strength of the country and elementary justice, and the only time the crime rate has been used is to argue against those who would argue against segregation, and I say that is wrong. It is not a fact, and it is not borne out by the figures. That is all I say.

Mr. THURMOND. I would like to ask the Senator from New York a question. May I ask him a question?

Mr. JAVITS. Oh, of course.

Mr. THURMOND. Would he favor integration, or segregation?

Mr. JAVITS. There is no question about my favoring integration in all things in which a person has a civil right to have equal facilities and equal opportunity with every other.

I am not going to get into a philosophical discussion as to whom one should invite to dinner or whom one's daughter should marry. That is each person's business. I am only talking

about going to school and getting a job and housing and the right to vote and the fundamental rights to which the Constitution of the United States relates. That is all I am talking about. That is all I ever talk about in this connection. That is what I am talking about; that is all I have ever talked about.

Mr. THURMOND. If schools were maintained on a segregated basis, with as good opportunities for one race as for the other, why would the Senator object?

Mr. JAVITS. I would object for the very reason that the Supreme Court—incidentally, by a unanimous opinion—has stated that inherent in segregated schools is a feeling on the part of the individual who is segregated that he is less desirable as a citizen, and as such a person has less opportunity than all citizens. This is wrong. This is not the way our country was organized to operate. This is contrary to the fundamental concept and principle of the Founding Fathers and of the United States. There is a national responsibility, and we must, with reason, intelligence, and justice, do what we can to uphold that responsibility.

Mr. THURMOND. Then I shall ask the Senator this question: Down South, in some of our schools, it has been found advisable to have separate high schools for girls of the same race and separate high schools for boys of the same race. Does the Senator object to that?

Mr. JAVITS. There we get into a question of opinion as to the relative educational merits or standards. I would not wish to express an opinion on that, because I am not an educator. But I do not believe it is similar at all because there the distinction is not based strictly upon color. It is not the same distinction at all. There a distinction is made upon the basis of physical activity in which young people can engage; in particular studies in which they may be interested; and other traditional pedagogical standards, whether right or wrong. It does not involve the same question as when people are separated solely by reason of color.

There are many laws upon the books of the States and of the United States in which special care is taken with respect to the hours of employment and conditions of work of women and children. Those considerations are built into our law. Certainly that does not represent any derogation of the civil rights of those persons. As I have just pointed out, it is not a distinction which is based upon what I consider to be, and what the Supreme Court has considered to be, and what I think the overwhelming opinion of the majority of Americans is, a distinction based upon color, which is contrary to the Constitution.

Mr. THURMOND. The Senator would not insinuate, would he, that because children are segregated because of sex, one sex is inferior to the other?

Mr. JAVITS. No. I think I made myself very clear on that score.

Mr. THURMOND. The Supreme Court held, I believe, that if a child is denied the right to associate with other children, that would not be equal opportunity and would not be due process. In some schools, for instance, the fifth grade might be so large that it would not be possible to put all the fifth-grade children in one class, and it would be necessary to have two fifth grades in the school. That would be segregation, would it not?

Mr. JAVITS. Mr. President, I think I have made clear my views upon this subject very precisely. The point is that there are many distinctions which are made in our law, and many distinctions are made in our practice about people, with respect to physical frailty, sex, or their particular location at a particular time, and many other things.

Mr. THURMOND. I believe the Supreme Court held that it would be discrimination to segregate. I ask the Senator, if there are equal opportunities, such as good teachers, good buildings, and everything else is equal, how can such equality be termed "discrimination"?

Mr. JAVITS. I believe it is not equality, and therefore it is discrimination.

Mr. THURMOND. It is not equality simply because both races are not allowed to participate?

Mr. JAVITS. It is not equality.

Mr. THURMOND. Suppose everything else is equal, except that one race goes to school here and one goes to school there. Is that discrimination?

Mr. JAVITS. I am not God, and neither is the Senator from South Carolina. The way this country was ordered, this great experiment in Government for all of us, we thought collectively, a long, long time ago—and I believe it has been demonstrated conclusively by our experience since—that the best way to raise a society of justice, intelligence, and productiveness is not to make a distinction between citizens on the ground of color. It is that concept which I believe is sacred to our Constitution and our institutions. Some of us, I think the majority of the country, are trying to carry that out, again, I repeat, with reason and discretion, and with deliberate speed, not, as we are often charged, overnight.

Mr. THURMOND. Does not the Senator feel that it would be better to raise little children in the pattern of life they are going to follow later?

Mr. JAVITS. The Senator from New York hopes that the pattern of life which little children will follow later will be a pattern in which opportunity in education, in housing, in voting, and similar civil rights will be enjoyed in compliance with the U.S. Constitution by everybody as citizens of the same class.

Mr. THURMOND. I ask the Senator from New York why there should be forced integration if it is not to be followed up soon by mixed-race marriages?

Mr. JAVITS. The Senator from New York does not have anything to say about that whatever. I have already made clear that whom a person marries or whom he invites to dinner is his business. It is in no way related to civil rights under the Constitution of the United States. I believe there is a reasonable right to expect that if we get started along the lines of giving citizens equal opportunity in respect to what are their civil rights, we will get to the point within a reasonable period of time when people will, together, enjoy those rights without distinction as to color.

If I were prepared to freeze into permanence the practices which are now pursued, what would this argument be all about? I am not, because the Constitution expresses exactly the contrary.

Mr. THURMOND. In reply, I may say that the Senator from New York must admit that in much of his own State there is segregation. There is segregation in housing. Tremendous sections of the Senator's State are segregated by race. There is segregation in some of the schools.

The article which the Senator from Mississippi [Mr. EASTLAND] read a few minutes ago states clearly that white people in New York were objecting to Negro children attending the same schools.

Since there is a tremendous amount of segregation in his own State now, does not the Senator from New York believe he has his hands full? Does he not feel that he has a big responsibility to go back home and work on integration in his own home State, and let the poor South alone?

Mr. JAVITS. In the first place, I do not believe the "poor South" is a proper characterization. I think the South is a productive, important, vital part of our country. I am not a bit patronizing, as far as the South is concerned. I have the most friendly, warm feelings for its people, whatever may be said about this matter on the floor.

As to segregation in my own State, certainly there is some segregation in my own State in housing. I do not believe there is any segregation in a willful way in terms of education. But I point out to the Senator from South Carolina what I have pointed out many times in my own State: All the machinery of law, all the public conscience, and a great part of the public activity, is devoted to eradicating it. Much of it has already been eradicated. We are constantly eradicating more. The whole force of public policy is against it. It seems to me that that represents the difference between my State and some of the other States of the Union, where exactly the contrary is true.

As to the Senator from New York going back to New York to attend to his own knitting, I am very much pleased to observe that 3½ million people of the State of New York voted to send me to the U.S. Senate. It would have taken many fewer to send me to the State Senate in Albany. They did not choose to do so. Therefore, so long as I am a Member of the U.S. Senate, I shall try to legislate nationally upon every subject which is the proper care of the Nation, which imperils my Nation, and which imperils, in my opinion, the free world. I shall not be deterred from doing so by being told to go back where I came from, as many other people are told to go back where they came from. That is not American, and nobody knows it better than I.

Mr. THURMOND. If the Senator from New York follows the course he has set out upon, he is going to attempt

to reform the whole United States. We think he has enough work back home, in his own State, among his own people. When he attempts to try to reform the rest of the States, when they have the right under the Constitution to do what they are doing, then we think he had better go back and renew his study of the Constitution, which he learned in law school years and years ago. I believe it would help him very much now to refresh his memory on constitutional law.

Mr. JAVITS. I may say to the Senator from South Carolina that I am a constant student of constitutional law, and I think I am fully well up on the cases. I think, if a vote were taken in the Senate, probably a majority would vote as I do, too. I do not believe I have been derelict in my homework since law school.

So what I have said today is, in my judgment, and I believe in the judgment of the great majority of the people of the country, entirely abreast of constitutional law as it stands today. I respect the right of the distingiushed Senator from South Carolina and his colleagues to differ, of course. That is why we are here—to expose our points of view. But I cannot accept the statement that my point of view is rooted in inadequate knowledge of constitutional law.

Mr. THURMOND. I should like to ask the Senator from New York a question which I think is very important. He said he was sent to the Senate to legislate nationally, and that he was not sent to the Senate to legislate for any one State. I wish to ask him a question, as a matter of frankness and candor: Is it not a matter of fact that the reason why he and some of the other Members of Congress who are taking the positions he and they are taking is, not so much because they love the Negro people—because we in the South have done far more for the Negroes than those Senators and their States have—but because, so I understand, in New York the Negroes constitute about 7 percent of the population, but they vote as a bloc, and that the Senator from New York is afraid of that bloc, and, therefore, he is catering to that bloc of votes in order to save his own political hide?

Mr. JAVITS. Well, I suppose the Senator from South Carolina has made his speech, but he has not asked me a question.

Mr. THURMOND. I said, "Is it not a fact?" [Laughter.]

Mr. JAVITS. Of course, I could be very cruel, by asking the Senator from South Carolina what proportion of the population of his State he is serving by his position because of its decided political views. But I will not; I would not insult the Senator.

Mr. THURMOND. In my State the Negroes are voting, and they can vote. But they have sense enough to know that segregation is the only practical way of life in South Carolina.

Mr. JAVITS. I shall not discuss the psychology of the Negroes in South Carolina. But I will say that, in my opinion, in New York the Negroes vote for either party. It is said that a very large proportion of them vote for the party which is not my party—in other words, vote for the Democratic Party. Bearing in mind the voting pattern of the population of New York City, obviously that is true.

Although of course I would tell the Senator from South Carolina that what he has said is not true and is not borne out by the facts, that is not very important. What is important is this: What is there to the argument the Senator from South Carolina is making that in any way answers the fundamental point that the constitutional rights of people are the care of the Congress, and must be preserved? Why is the Senator's argument that I am "demagoging," a substantial argument directed to the merits? Is it directed to the merits? Does it prove anything as to the correctness or the incorrectness of this cause?

Mr. THURMOND. We believe in the Constitution of the United States; and the Constitution reserves those powers to the States. We expect to exercise those powers.

We believe that if some people in other sections of the country believed truly in the Constitution, and did not attempt to get the Congress to pass legislation in violation of the Constitution, and if we could prevent the executive branch and the legislative branch and the judicial branch from usurping the Constitution, this country would be far better off. So long as I remain a Member of the U.S. Senate, I expect to fight for the Constitution.

If some wish to amend the Constitution, that is another matter. If the Senator from New York wishes to change the way of life of the American people in the field of education, in the field of marriage, and in various other fields not now permissible for the Congress to legislate on, he has the prerogative to institute and initiate action toward that end. But at the present time the Federal Government does not have that authority; and we are standing foursquare on the Constitution, because we are confident that it is best for this Nation.

Mr. JAVITS. I should like to say that what the Senator from South Carolina has just now said is an answer. I do not accept it as a good answer; but it is an answer.

But again I point out that the motives with which the Senator from South Carolina has charged me—and I am his friend, anyhow—are not an answer; that is all.

Mr. THURMOND. In reply, I wish to say that what I said was not directed personally at the Senator from New York. But is not that true of most of the Members of Congress who come from States in which the minority blocs control the elections; and, therefore, the candidates, or most of them, feel that they are obligated or that they have to do that, in order to get elected?

Mr. JAVITS. I think we have fully explored that question. I do not believe we could cast any more light on it. I only say to the Senator from South Carolina that I believe in my heart in the sincerity of others who espouse the same views; I believe they are fully as sincere as I am.

Mr. ELLENDER. Mr. President, will the Senator from South Carolina yield to me?

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

Mr. THURMOND. I yield.

Mr. ELLENDER. I wish to ask a question. A moment ago the Senator from New York discussed crime, and tried to compare the crimes committed in New York and other States with the crimes committed in the South.

I remember that recently the crime wave in New York was based on racial differences; the Puerto Ricans and the Negroes banded together—and they are still doing it—and fought the gringos, on the one hand, and the white Americans, on the other. Is not that a correct statement?

Mr. THURMOND. The Senator from Louisiana is eminently correct. Any crime that has occurred in the South has not occurred because of racial disorders or racial differences. But the crimes which have occurred in the North—according to the newspaper and magazine reports—are directly the result of racial troubles.

Mr. ELLENDER. That is the point I wanted to clear up.

Mr. THURMOND. I thank the Senator from Louisiana.

Mr. President, let us look at other so-called findings and recommendations of the Commission, concerning which the Commission has admitted there is practically no information available on which to base any finding or recommendation. Some of the Commissioners made a finding that there is a lack of uniformity of laws with respect to the preservation of voting records. Mr. President, this is indeed a profound revelation. It is profound in spite of the fact that it is what our forefathers and the drafters of the Constitution intended in the first place, and what is basically inherent in our whole system of government, in the second place. The very fact that we do not yet have a totalitarian Government should have been enough in itself to indicate that the States still had the right to have differences in their laws on a subject which is exclusively within the sovereign power and authority of each of the several States.

It is in the recommendation, Mr. President, that either the utter irresponsibility or the abysmal ignorance of the Commissioners who joined in this recommendation stands out. These Commissioners recommended that the Federal Government enact legislation which would require the maintenance of all voting records for a period of 5 years and that such voting records be open to public inspection. Such a statute would obviously be unconstitutional, but the remainder of this report proves unquestionably that such a consideration played no part in the judgment of the avid integrationist members of the Commission.

The third item listed as a recommendation under the discussion of voting is

to say the least, a confusing compilation of words lacking not only a complete thought, but any thought at all. The discussion called "background," when combined with the so-called findings, convey a rather hazy impression that the Commission is lamenting the fact that some private citizens do not choose to serve on registration boards.

This discussion mentions the fact that, in some instances, some members of the boards have resigned their post, and that the State officials responsible for filling the vacancies have delayed in doing so. The Commission concludes that such conduct, presumably by the resignees and the State officials, is abitrary, capricious, and without legal cause or justification. To remedy the situation, if indeed the Commission has any particular situation in mind, the Commission recommends that an additional section be added to part IV of the so-called Civil Rights Act of 1957 to prohibit any person from being a nonfeasor under color of State law, arbitrarily, without legal justification or cause, if any such nonfeasance results in somebody being unable to register. Consideration of the lack of constitutional authority for the Federal Government to interfere in State matters is again belied by this so-called recommendation.

The next discussion of the Commission included under the topic of voting has nothing whatsoever to do wtih voting—and this, incidentally, is in line with the organization of the rest of this report and the thinking which spawned it. At this point the report goes into the matter of witnesses who decline to testify before this insidious body. As in so many instances, the so-called recommendations have, not surprisingly, attempted to justify expanded authority for the Commission. In this particular instance, those of the Commission who joined in this recommendation, would have the Commission authorized to apply directly to the appropriate U.S. district court for orders enforcing subpenas where the subpenaed person declined to testify.

After this diversion into matters more extraneous even than the other parts of the report, the Commission returned to a discussion of persons declining to serve on registration boards. At this point, there is an additional so-called recommendation which surpasses by a considerable extent in complete disregard of the Constitution and our federated republican form of government anything that has come previously in the report. This proposal is for the appointment of a Federal registrar who would determine what persons under the terms of State law were eligible to vote and would dictate the registration lists to the State boards of registration. Such a proposal would not only be unconstitutional, but would, in fact, establish a Federal dictatorship—if indeed it could be enforced. One would think that the authors of such a proposal were existing mentally in reconstruction days and writing regulations for the conduct of civil affairs by the occupying Union troops. It might come as a surprise to the authors of this proposal and others of a similar mind, but the fact is that the South is no longer a conquered province. Further, the South has never been, nor will it ever be, conquered by the enactment of such proposals.

Next, the report, apparently for the first time, acknowledges the existence of the U.S. Constitution and, even more surprisingly, the acknowledgment is by the three most avid integrationist commissioners. Their acknowledgment, however, is only in passing and for the sole purpose of "zeroing in" on the target they forewith propose to destroy. Their proposal for destruction embodies a constitutional amendment which would transfer all substantial control and authority over the eligibility of voters from the States, where it now resides, to the Federal Government, where it can only reside in tyranny.

I would note at this point that three of the Commissioners opposed the proposal of such a constitutional amendment, and it is to their everlasting credit that they recognize the inherent danger of such a proposal.

Before passing from this particular proposal, it is worthy to note, in connection with the rationale which prompted the proposal, how the three avid integrationists justified the elimination of any literacy tests from voting eligibility requirements.

First, the Commission noted that the march of education has almost eliminated illiteracy. This they followed with the following unbelievably unrealistic rationale:

> In a nation dedicated to the full development of every citizen's human potential, there is no excuse for whatever illiteracy that may remain. Ratification of the proposed amendment would, we believe, provide an additional incentive for its total elimination. Meanwhile, abundant information about political candidates and issues is available to all by way of television and radio.

Such shallowness of mental process could only stem from the deepest of bias.

Mr. President, before turning to the next portion of what someone, in a fit of delusion has mistitled a "report," I would remind the Senate that the first so-called finding under the voting section recognizes that there is an almost complete absence of information on this particular subject. Nothing could better prove the truth of this first so-called finding than the remainder of the section on voting.

In the portion of the report which purports to deal with the field of so-called civil rights and education, the Commission does not find, but certainly indicates by its language, that there is also a dearth of knowledge—in the minds of those who wrote this report, at least—on this particular feature. The initial so-called finding on education by some Commissioners—again, there is no way of telling how many—is to the effect that there is no "guidance" for those communities or school officials who might desire to integrate their schools. This is followed by what is titled a "recommendation" that the Civil Rights Commission be authorized to collect and make available various schemes for integrating the races in the public schools, in addition to authorizing the Civil Rights Commission to establish an "advisory and conciliation service" for school integration.

Mr. President, in my State at least, I can assure the Senate that there is no desire—much less demand—for the advice or conciliation efforts, nor for the integration schemes, of this or any other Federal commission. I doubt seriously whether any such desire exists anywhere. This is just another of those self-serving, self-perpetuating, empire-building justifications.

The only other proposal which is titled a "recommendation" in the field of education is to the effect that the Office of Education and the Bureau of Census conduct a school census to show the number and race of students in public schools. This proposal is included as an answer to the surprising finding that in agencies of the Federal Government and in most State agencies, the records are not kept separate on the basis of race so that there is no way in which to tell how many of the students are of what color. The agitators in the race relations field have long demanded, and apparently finally achieved, the abolition of a most practical and realistic device—the indication of a person's race on his record. Rather than acknowledge that the abolition of this practice was a mistake in the first place, the race agitators would now have the records duplicated with the accent on race by a Federal agency. Quite frankly, Mr. President, such mental gymnastics repulse me.

Once again, Mr. President, the three avid integrationists on the Commission take off on their own proposals on education at this point in the report. In effect they would have all financial assistance of the Federal Government tied to integration practices in "both publicly and privately supported" institutions of higher education. Even if the 14th amendment did apply in such a way that public segregated schools could not be maintained and this is emphatically not the case—even the errant and constitutionally unconscious occupants of the Supreme Court admit that the 14th amendment applies only to State action; and indeed in the discussion of their own proposal, these three Commissioners parrot the words "only State action," but apparently without the slightest understanding of the meaning of this phrase.

The remaining three members of the Commission wrote their best dissent on this point, stating that they could not "endorse a program of economic coercion" and that this proposal, which dealt with institutions of higher education, was completely without the jurisdiction of the Commission under the terms of the act by which it was created. The dissent also reveals that the staff studies of the Commission were limited exclusively in the field of education to elementary and secondary public schools, not private at any level, nor institutions of higher education, whether public or private. This is but another indication, if indeed any additional indication is necessary, that the entirety of the report is a matter of conjecture rather than any intelligent studious approach.

On the subject of housing, I gather that although there are a number of pro-

posals which are entitled "recommendations" contained in this section of the report, none of them has the support of a majority of the Commission, and therefore, could hardly be considered recommendations. The proposals themselves are confusingly worded, ineptly expressed, and hazy in content.

One of the so-called findings which should be of particular interest to the Congress is the fact that the Federal Government plays a major role in housing. I am happy to note that by virtue of this body's action recently, the Federal Government will play a slightly less major role in housing this year than was earlier supposed.

The proposals themselves are easily summarized. They would have the President issue Executive orders to enforce integration of the races in housing in which the Federal Government had any part or participation. In addition, the proposals would have the Federal Government go much further into the fields of public housing and urban renewal.

These proposals are no surprise to me. I have long realized that the race agitators propose to use housing as a tool to mix the races. The three members of the Commission who dissented summed up the proposals quite aptly as suggesting "fixed programs of mixing the races anywhere and everywhere regardless of the wishes of either race." In their proposals the avid integrationists on the Commission spell out the methods by which housing can be used to integrate the races. These are interesting to note because their use is more often by surreptitious means, and here we have them spelled out in the open. For instance, they would adopt a policy of "scatteration" in public housing by sprinkling public housing units throughout residential areas and installing in them persons of a race different from those living in the community. In this connection it is interesting to note that these Commissioners are as much concerned with the problem of getting white people to live in all-Negro units as they are with getting some Negroes to live in all-white units. They recognize, it seems, that the members of neither race ordinarily desire to force themselves on the other.

Mr. President, the policy of "scatteration" is nothing new to the Congress of the United States. I distinctly recall that such a policy was incorporated in the omnibus housing bill reported by the Banking and Currency Committee of the Senate in 1958 but was deleted by an amendment I offered on the floor.

Mr. President, this report should be read by every Member of this body before he votes on the question of continuing the existence of this Commission. A knowledge of what recommendations were made generally or, indeed, whether there were recommendations at all, is not sufficient. There is much revealing language in this report for all its confusion and obscurity. I would like to give two illustrations.

As I mentioned when I was reviewing the section of the report which purported to deal with voting, the report took a diversion to lament the fact that some citizens were disinclined to serve on State registration boards. In this discussion the report attributes to such persons as one reason for their refusal to serve the "fear of being 'hounded' by the U.S. Civil Rights Commission." What further proof could be needed that the Commission itself is a principal instrument of racial strife and voting difficulties?

Even more revealing with regard to the attitude of some of the more avid integrationists on the Commission itself is a statement by Commissioner Hesburgh. I do not believe I have ever heard the Marxist philosophy more succinctly stated than in the words of Commissioner Hesburgh in his comments near the end of the report, where he said:

> Again, the use of public money for the benefit of all, equal opportunity, is a cardinal principle.

The question before this body is whether to continue an ill-conceived instrument of racial strife, wielded under the influence of philosophies alien to all that true and patriotic Americans hold dear.

When the so-called civil rights bill of 1957 was considered by this body, I opposed the bill, including the creation of the Civil Rights Commission. Although I spoke at some length concerning the defects of the proposal to create such a body, my objections fell largely on emotion-closed ears. I would like to recall to the Senate some of my comments on what was at that time a proposed Civil Rights Commission. On that occasion, I said:

> Mr. President, I am opposed to the creation of a Commission on Civil Rights as proposed in part I of H.R. 6127.
>
> To begin with, there is absolutely no need or reason for the establishment of such a Commission. If there were any necessity for an investigation in the field of civil rights, such an investigation should be conducted by the States or by an approprate Committee of the Congress, acting within the jurisdiction of congressional authority. It should not be done by a Commission.
>
> I also object to part I of H.R. 6127 because of the fact that it places duties upon the Commission and endows it with powers which no governmental commission should have.
>
> In fact, Mr. President, the language of the bill proposing to establish this Commission is so broad and so general that it may encompass more evils than have yet been detected in it.
>
> Under its duties and powers the Commission would be able to subpena citizens to appear before it to answer questions on many subjects outside the scope of elections and voting rights.
>
> Section 104(a) provides the Commission shall—
>
> "(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;"
>
> Mr. President, the bill, in part IV, contains an additional protection of the voting right of citizens above and beyond present State and Federal laws. Provision is made for enforcement of part IV, and there were already sufficient enforcement provisions to carry out the intent of the existing State and Federal laws. I do not see how a Commission could enhance the investigative powers of law-enforcement officers nor the enforcement and punitive authority of the courts.
>
> I can see no valid reason why a Commission should be created, in addition to the legal enforcement procedures, unless the purpose is for the Commission to stir up litigation among our people.
>
> This bill has been advertised, promoted and ballyhooed as a right to vote bill. However, I want to cite two paragraphs which give broad authority for investigations other than alleged violations of a person's right to vote.
>
> Section 104(a) provides the Commission shall—
>
> "(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution; and
>
> "(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution."
>
> Instead of limiting the power of the Commission, these two paragraphs provide it with carte blanche authority to probe into and meddle into every phase of the relations existing between individuals which the Commission and members of its staff could conjure up.
>
> I want to call particular attention to a divergence in language between paragraphs 2 and 3. Paragraph 2 refers to a study of "legal developments constituting a denial of equal protection." Paragraph 3 says "appraise the laws and policies of the Federal Government with respect to equal protection."
>
> The significant thing here is the omission of the specific intent of paragraph 2. Although the language of paragraph 2 is obscure and omits a governmental reference, obviously must refer to State and local governments, else it would be redundant and have no meaning at all.
>
> Also, as I pointed out, investigations conducted under paragraphs 2 and 3 could go far afield from the question of voting rights. The Commission could exert its efforts toward bringing about integration of the races in the schools, and elsewhere, under the authorization of these two paragraphs. Combining its authority to investigate on an unlimited scale and its authority to force witnesses to answer questions, the Commission would have a powerful weapon.
>
> Mr. President, I do not believe the people of this country realize the virtually unlimited powers of inquiry which would be placed in the hands of this political Commission. While the Commission would have no power to implement its desires, I do not believe the people of this country want such a totalitarian type of "persuasion" imposed upon them.
>
> Part I of H.R. 6127 purports to create a Civil Rights Commission. Actually, it would create a traveling investigation commission.
>
> Section 103(b) of part I also would place tremendous power within the grasp of the Attorney General with reference to members of the Commission "otherwise in the service of the Government." The clear implication is that whoever drafted this scheme to send traveling agents over the country intended to make use of certain members of the executive branch of the Federal Government. I don't believe it would be necessary to look farther than the Justice Department to determine where Commission members already in Government service would be secured. By placing his employees on the Commission the Attorney General would transform the traveling agents into an additional investigative arm of the Justice Department.
>
> Mr. President, I next call attention to the potential abuse found in section 102(g) under the innocuous title, "Rules of Procedure of the Commission." That section provides that:
>
> "No evidence or testimony taken in executive session may be released or used in publ

sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than 1 year."

In an editorial of July 26, 1957, the Washington Post very correctly pointed out how this section could be used to imprison reporters and other citizens for disclosure of what a witness might voluntarily tell them. This editorial provides a penetrating and enlightening criticism of this section. Because of its pertinency and fine analysis, I shall read the last three paragraphs of the editorial which is entitled "Open Rights Hearings," which states:

"The bill contains an invitation to the Commission to operate behind closed doors. It provides that if the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall * * * receive such evidence testimony in executive session. Some closed sessions may be necessary to avoid unfair reflections upon individuals, but these should certainly be an exception to the general rule. In our opinion, this section ought to be rewritten in a more positive vein to provide that sessions of the Commission should be open to the public, unless it should find that closed hearings were essential to avoid unfairness.

"The House also wrote into the bill a dangerous section providing for the fining or imprisonment for not more than one year of anyone who might 'release or use in public,' without the consent of the Commission, any testimony taken behind closed doors. If the Commission should choose to operate under cover, without any valid reason to do so, newspaper reporters and other citizens could be jailed for disclosure of what a witness might voluntarily tell them. This is a penalty that has been shunned even in matters affecting national security. Such a provision is an invitation to abuse and a serious menace to the right of the people to know about the activities of governmental agencies.

"It is well to remember that this would not be merely a study Commission. In addition it would be under obligation to investigate allegations that persons were being deprived of their rights under the 14th and 15th amendments. It could subpena witnesses and documents and appeal to the courts for enforcement of such edicts. Its powers would be such that it should be held to scrupulous rules of fairness. To encourage the Commission to operate in secret, and then to penalize news media and citizens for disclosing what should have been public in the first place, would be the sort of mistake that Congress ought to avoid at the outset."

Mr. President, I think the points made in the editorial are clear and valid. Secrecy in the activities of such a Commission could only lead to a denial of the rights of an individual rather than to protection of his rights.

Another subject which must not be passed over is the subpena power of the Commission. Section 105(f) provides that "subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission."

Mr. President, many of the committees and special committees of the Congress do not have this power. The Truman Commission on Civil Rights did not have it. The subpena is a punitive measure, generally reserved for final process whereby powers are granted to force testimony which would not otherwise be available. If the proposed commission were simply a factfinding commission and nonpolitical, the extreme power to force testimony by the use of a subpena would not be needed.

Neither would the power contained in section 105(g) which provides that Federal courts shall have the power, upon application by the Attorney General, to issue "an order requiring" a witness to answer a subpena of the Commission and "any failure to obey such order of the court may be punished by said court as a contempt therof."

The power of subpena in the hands of a political commission and the additional power to enforce its subpenas by court order diverge from the authority of the traditional American factfinding commission.

I look with suspicion upon such a commission so endowed with authority, and I object to its establishment.

Mr. President, I want to discuss another reason, briefly, why I would be opposed to the establishment of the commission proposed in part I of H.R. 6127. Every appropriation bill which has come before the Senate this year has been reduced by the Senate below the budget request. The people of this country have called upon the Members of Congress to reduce the costs of Government, not to increase them by creating new agencies or commissions.

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

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

The taxpayers would never know how many of their tax dollars were wasted by virtue of the seemingly innocuous langauge in section 105(e). Unknown, concealed costs are not, however, the only dangers lurking in that subsection. A serious departure from sound legislative procedure is also involved.

In the past, when creating an agency or commission, Congress retained control of its creation by the appropriation power. This is a wonderful check, Mr. President, against the abuse or misuse of commission authority. Scrupulous care should be taken to preserve it.

However, section 105(e) provides that: "All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties."

Thus the Civil Rights Commission could call on the other governmental agencies to perform many of its tasks. Congressional control over the Commission would be much less than if the Commission had to depend on its own appropriations and would not be permitted to use the resources of other agencies. Once the Commission is created, only another law can check its activity during the period of its existence.

Another thing that concerns me about this Commission is the fact that once a Government agency or commission is established, nothing else on earth so nearly approaches eternal existence as that Government agency or commission. Mr. President, I fear that the 2-year limitation placed upon the Commission in this bill would simply be a starting point, and the people of this country should realize that at this time.

With further reference to section 104(a), I want to point out the use of the mandatory word "shall." This word requires the Commission to investigate all sworn allegations submitted to the Commission of any citizen allegedly being deprived of his right to vote.

But the provision neglects to require that such allegations be submitted by parties in interest—not simply by some meddler who seeks to create trouble between other persons. This is another provision of this bill similar to section 131(c) which would permit the Attorney General to make the United States a party to a case without the consent of the party actually involved.

Another objection to 104(a) is that under this provision a person could make an allegation to the Commission, against a person who was not even a citizen of the same State. Even so, under the mandatory language of section 104(a), the Commission would be required to make an investigation of the charges.

Since the Commission is limited by section 102(k) to subpenaing witnesses to hearings only within the State of residence of the witness, there would be no opportunity in such a situation for the accused to confront his accuser. Charges against a person should not be accepted by the Commission unless the accuser is a citizen of the same State as the person he is charging with a violation of the law.

Also, Mr. President, once the Commission has received the sworn allegation, there is no requirement that other testimony received relating to the allegation be taken under oath. Failure to make all persons giving testimony subject to perjury prosecutions in the event they testify to falsehoods would surely destroy the value of any such testimony received.

The Commission could and might adopt a rule to require sworn testimony; but I should not like to see the Senate leave that point to the discretion of the Commission because, in my judgment, the Congress should require that practice to be followed.

Mr. President, as I stated earlier, it is my view that an inquiry into the field of civil rights, or so-called civil rights, is entirely unnecessary at this time. The laws of the States and the Federal laws are being enforced effectively.

Should there come a time when information might be needed on this subject, the Congress should not delegate its authority to a commission. In such a delicate and sensitive area, the Congress should proceed with deliberation and care. The appropriate committees of the Congress itself should hold hearings limited to the jurisdiction of the Congress, and the Congress should make its own determination as to the need for legislation.

There is no present indication that any such study will be needed.

Following these remarks, Mr. President, I discussed the constitutional objections to such a Commission. Prior to the creation of the Commission, I was bothered by grave questions as to the constitutionality of such an investigatory group. Passage of time since its creation has strengthened and reinforced my position against the constitutionality of the commission.

I did not and do not perceive from the debate on the so-called Civil Rights Act of 1957 that there was any intention by Senators to subject the Commission to provisions of the Administrative Procedure Act. Had they dared, I strongly suspect that the proponents of that Act would have specifically negated the applicability of the Administrative Procedure Act. The proponents of the 1957 Act wanted all they could get in the way of authority for their vicious unit of disharmony. They dreamed of a true "star chamber," cloaked with arbitrary persecution powers. In their obsession with agitating the race issue, they evidenced

no concern whatsoever with true civil rights, or as I prefer to call them, individual liberties. Their extreme fanaticism on the issue of race was paramount and exclusive—without objectivity, without balance, and without respect for the "supreme law of the land."

My conclusions are not products of speculation or conjecture, Mr. President. Section 102 of the Civil Rights Act of 1957 deals rather exhaustively, for an act of this type, with the rules and rule-making authority of the Civil Rights Commission. A perusal of this section reveals that it is designed almost exclusively as a grant of power to the Commission, rather than a limitation for the protection of the rights of individuals. The text of this section is as follows:

SEC. 102. (a) The Chairman or one designated by him to act as Chairman at a hearing of the Commission shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to the witness before the Commission.

(c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall (1) receive such evidence or testimony in executive session; (2) afford such person an opportunity voluntarily to appear as a witness; and (3) receive and dispose of requests from such person to subpena additional witnesses.

(f) Except as provided in sections 102 and 105(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(g) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission is the sole judge of the pertinency of testimony and evidence adduced at its hearings.

(i) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session, or, if given at an executive session, when authorized by the Commission.

(j) A witness attending any session of the Commission shall receive $4 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 8 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $12 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State, wherein the witness is found or resides or transacts business.

Mr. President, I invite the particular attention of the Senate to subparagraph (c) of section 102:

Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

Mr. President, seldom has a subsection been drafted by any Congress which has been so pregnant with basic deprivations and exclusions of the historical standards of fair play which permeates our jurisprudence, and which we loosely refer to as due-process. Let us examine some of those procedural safeguards which are denied by this section. First, the right of a person appearing before the Commission to be represented by counsel is negated. Substituted for representation by counsel is the right—if it can be so broadly denominated—to be accompanied by counsel. Moral support is no substitute for an active defense. Such a provision can best be compared to allowing an accused person to have a few sympathizers in the audience when he is sentenced.

But there is more. The ridiculous is made fantastic. The right to be accompanied by counsel is itself—weak as it is—limited to one exclusive purpose—that of advising the witness on his constitutional rights. Not on his legal rights, Mr. President, but only on his constitutional rights. I wonder, Mr. President, if the drafters of this language contemplated a monitoring of the advice of the accompanying counsel to assure that counsel would not go astray and speak to the witness concerning some statutory right which might accrue to the benefit of the witness.

Does this subsection indicate a concern with individual liberty, or does it rather have the appearance of a deceitful gloss that gives an impression of preserving due process while actually emasculating it?

The proponents of this legislation also wanted to insure that the accompanying counsel could be prevented from conducting themselves as conscientious attorneys, Mr. President—thus, was included subsection (d) which reads:

The chairman or acting chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

Judging from the overall import of section 102, the "un" which prefixes "professional" in subsection (d) must have been included by oversight. Consistency belies its inclusion.

Subsection (g) established the "star chamber" session of the Commission. This subsection so completely ignores constitutional safeguards contained in the Constitution and imposed by the people for the protection of individual liberties, that one would logically conclude that its proponents had formerly existed in a vacuum, rather than in a democratic society. It is completely incompatible with freedom of speech and the press. It precludes the right of confrontation of accuser by the accused, as well as the right of cross-examination. Its purport is reinforced by subsection (i), which specifies that a witness may purchase a copy of his own testimony, but omits any authorization for a witness to even see the testimony of an accuser.

Mr. President, I would be the first to admit—nay, assert—that the requirements of "due process" vary considerably, depending on the proceedings to which they are applied. The requirements are most strict when applied to a criminal prosecution. In some proceedings, where no basic right of the individual is involved, little, if any, application of due process safeguards are demanded by the Constitution nor required by good conscience.

It should be clear, however, that a criminal prosecution includes more than the formal trial itself. Indeed, historically, much of the concern which the courts have evidenced over the application of due process in criminal prosecutions has been in the pretrial area of apprehension, and preparation of the prosecution case against the accused. This is the precise area into which the investigations of the Civil Rights Commission were intended to and in fact, did, fall.

By the terms of the act itself, investigations by the Commission must be predicated on a complaint that either a statute or the Constitution has been violated. The Commission was given, and has exercised, the power to subpena those accused. Part II and part III strengthened the machinery for prosecution of violations established by the Commission.

There can be but one logical conclusion. The Civil Rights Commission is unconstitutional.

If there be any doubts—and I can conceive no basis for doubt—of the unconstitutionality of this Commission, stemming specifically from the rulemaking power granted in section 102, consider the rules of the Commission. They are as follows:

1. Under Public Law 85-315, section 105(f) the Commission on Civil Rights may hold hearings and issue subpenas or authorize a subcommittee to hold hearings and issue subpenas under the following conditions:

The Commission or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, 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 or the production of written or other matters may be issued in accordance with the rules of the Commission as contained in section 102 (j) and(k) of this act, over the signature of the Chairman of the Commission or of such subcommittee and may be served by any person designated by such Chairman.

2. All such hearings of the Commission will be governed by the following statutory rules of procedure provided in section 102 of Public Law 85-315:

(a) The Chairman or one designated by him to act as Chairman at a hearing of the

Commission shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commissions rules shall be made available to the witness before the Commission.

(c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall (1) receive such evidence or testimony in executive session; (2) afford such person an opportunity voluntarily to appear as a witness; and (3) receive and dispose of requests from such person to subpena aditional witnesses.

(f) Except as provided in sections 102 and 105(f) of this act, the Chairman shall receive and the Commission shal dispose of requests to subpena additional witnesses.

(g) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than 1 year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission is the sole judge of the pertinency of testimony and evidence adduced at its hearings.

(i) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Commission.

(j) A witness attending any session of the Commission shall receive $4 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 8 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $12 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State, wherein the witness is found or resides or transacts business.

3. In addition to these statutory provisions, the Commission has adopted the following supplementary Rules of Procedure:

(a) All the provisions of section 102 of Public Law 85–315, incorporated in rule 2 above, shall be applicable to and govern the proceedings of all subcommittees appointed by the Commission pursuant to section 105 (f) of Public Law 85–315, incorporated in rule 1 above.

(b) At least two members of the Commission must be present at any hearing of the Commission or of any subcommittee thereof.

(c) The holding of hearings by the Commission or the appointment of a subcommittee to hold hearings pursuant to the provisions in rule 1 above must be approved by a majority of the members of the Commission or by a majority of the members present at a meeting at which at least a quorum of four members is present.

(d) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued over the signature of the Chairman of the Commission by the chairman or by the Chairman upon the request of a member of the Commission.

(e) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued over the signature of the chairman of a subcommittee appointed pursuant to the provisions of rule 1 above by the Chairman or by the Chairman upon the request of a member of the subcommittee.

(f) An accurate transcript shall be made of the testimony of all witnesses in all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof. Each witness will have the right to inspect the record of his own testimony. A transcript copy of his testimony may be purchased by a witness pursuant to Rule 2(i) above. Transcript copies of public sessions may be obtained by the public upon payment of the cost thereof.

(g) Any witness desiring to read a prepared statement in a hearing shall file a copy with the Commission or subcommittee 24 hours in advance. The Commission or subcommittee shall decide whether to permit the reading of such statement.

(h) The Commission or subcommittee shall decide whether written statements or documents submitted to it shall be placed in the record of the hearing.

(i) Interrogation of witnesses at hearings shall be conducted only by members of the Commission or by authorized staff personnel.

(j) If the Commission pursuant to rule 2(e), or any subcommittee thereof, determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall advise such person that such evidence has been given and it shall afford such person an opportunity to read the pertinent testimony and to appear as a voluntary witness or to file a sworn statement in his behalf.

(k) Subject to the physical limitations of the hearing room and consideration of the physical comfort of Commission members, staff, and witnesses, equal and reasonable access for coverage of the hearings shall be provided to the various means of communications, including newspapers, magazines, radio, news reels, and television. However, no witness shall be televised, filmed or photographed during the hearing if he objects on the ground of distraction, harassment, or physical handicap.

4. Public Law 85–315, section 105(g) provides that in case of contumacy or refusal to obey a subpena of either the Commission or a subcommittee thereof, 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 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.

Mr. President, these are the rules as approved and adopted by the Commission July 1, 1958. They are beyond question responsive to the terms of the act which created the Commission. They emphasize by implementation and expansion the unconstitutionality of the act creating the Commission.

I am not alone in my assertions as to the constitutional implications of this statute, Mr. President. For instance, the State of Arkansas, through its attorney general, filed a brief with the Federal district court in Louisiana, which said in part:

The Civil Rights Commission is extraordinary, if not unique, in that it intends to function much the same as a congressional investigating committee and if its apparent intepretation of the law creating it (Civil Rights Act, Public Law, 85–315, title 42, U.S.C.A. sec. 1957 et seq.) is sustained it possesses all the power and authority of a "star-chamber" undertaking. It is the assumption by the Commission or the delegation by the Congress of this power and authority which gives rise to the serious question of the Committee's legal existence. If the Civil Rights Commission is not subject to the provisions of the Administrative Procedure Act (5 U.S.C.A. secs. 1001 et seq.), then that portion of the Civil Rights Act creating the Commission is invalid as a violation of article I and amendments 5, 6 and 9 of the Constitution of the United States.

I. THAT PORTION OF THE CIVIL RIGHTS ACT CREATING THE CIVIL RIGHTS COMMISSION IS AN UNCONSTITUTIONAL DELEGATION OF AUTHORITY BY THE CONGRESS AND IT DEPRIVES WITNESSES BEFORE IT OF THEIR RIGHTS AS GUARANTEED BY THE CONSTITUTION OF THE UNITED STATES

The right of Congress to investigate through its own agency is unquestioned. This right is derived from its determination or duty to legislate upon particular subject matter. It may be well to point out here that in the field assigned to the Civil Rights Commission there was companion remedial legislation (42 U.S.C.A. sec. 1971) thoroughly covering the subject matter the Commission was supposed to investigate. One may obliquely inquire at this point as to what further legislation could be contemplated based on any investigation and finding made by the Civil Rights Commission. It is true that in *U.S.* v. *Rains* (172 F. Supp. 557, sec. 1971, par. (c)) was held unconstitutional but the remedy, if any, for that deficiency will be found in constitutional legislation, not further Commission investigation.

It is well to keep in mind that this Commission is greatly dissimilar to the great body of regulatory agencies which possess investigative powers. Those regulatory agencies investigate with a view to determining facts in relation to violations, compliance, etc., with the law they administer. The Civil Rights Commission investigates for the sake of investigation. There is no framework of law in which the Commission operates; in fact, there is no law to administer and no authority to regulate. As pointed out in complainants' trial brief, the Commission is not limited to the investigation of voting deprivations committed or caused by State officers or even where an individual acting under the guise of State authority deprives some person of his voting privilege, but extends to every possible situation irrespective of the authority of Congress to legislate with reference to that situation. This fact in itself is sufficient to render the act unconstitutional. See *McGrain* v. *Daugherty* (273 U.S. 135); *Kilbourn* v. *Thompson* (103 U.S. 168); *U.S.* v. *DiCarlo* (102 F. Supp. 597).

If this Commission has been clothed with all the power and authority of Congress, and the law creating the Commission is very reminiscent of a House or Senate resolution creating a special investigating committee of its members, it must, of course, be bound

by at least the same ground rules and constitutional limitations. If it can be successfully argued that the Civil Rights Commission is not subject to the Administrative Procedure Act, then an inquiry must be made into what rules, regulations and laws do apply to the Commission's proceedings. The only place one can find the answer is in the act itself, and even a casual reading of the act indicates that there is no answer. To examine these provisions in the light of what the Commission considers the limitations are, is to be startled if not shocked by the ignoring of the constitutional rights of individuals who may be called before it. The rules of the committee reflect the validity of this statement. The authority to make these rules must be inferred from the provision of section 1975a (there is no express grant of such authority).

Section 1975a(c) does allow witnesses to be accompanied by counsel "for the purpose of advising them concerning their constitutional rights." It does not provide that a witness may assert his constitutional rights before the Commission. If this last appears to be an unworthy observation it is no less unworthy than the Commission's conclusion regarding a witness' right to be informed of the nature of the investigation or his right to cross-examine other witnesses. The Commission's power to investigate must be exercised with due respect for the rights of witnesses appearing before it. See *Sinclair* v. *U.S.*, 279 U.S. 263. The Commission by its rules and attitude has indicated that it considers itself and its activities above the requirements of the Constitution and the restriction of fairplay. The real difficulty here is that Congress has not provided any standard or means of accomplishing the Commission's somewhat hazy mission. Such a standard or means must necessarily be present in order to validate the Commission's existance. See *U.S.* v. *C. Thomas Stores*, 49 F. Supp. 111; *U.S.* v. *Wright*, 48 F. Supp. 687. The Civil Rights Commission, under the guise of declaring procedural rules and investigative policy, has legislated substantive laws out of existance. If the Commission is correct in this assumption of such broad rulemaking power, then Congress has delegated legislative authority which even Congress itself may not posses. It is no answer to the problem posed here to say that the complainants or other witnesses may assert their rights when denied by the Commission through resort to the Court. To single out every invalid rule which has or might be promulgated by the Commission would place an insurmountable burden on those subject to appearance before it.

II. THE CIVIL RIGHTS COMMISSION IS SUBJECT TO THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT

The Civil Rights Commission is operating and acting with the expressed sanction of the Congress behind it and as such, is an agency of the Government. *Laster* v. *Guy F. Atkinson Co.*, 176 Fed. 2d 984; *Donahue* v. *George A. Fuller Co.*, 104 F. Supp. 145. As an agency of the Government, the Commission's function is subject to the Administrative Procedure Act, unless excepted. The exceptions to the Administrative Procedure Act are few and simple and a consideration of the exceptions set forth in the act show that the only possible way in which the Civil Rights Commission could be excepted is through a proper and express delegation of authority by law. There is nothing in the Civil Rights Act creating the Commission that even hints of an exception.

"Exemptions from the terms of the Administrative Procedure Act are not lightly to be presumed in view of the statement in section 12 of the act that modifications must be expressed" (*Marcello* v. *Bonds*, 349 U.S. 302).

The protection afforded by the Administrative Procedure Act should be equally available to protect personal rights as well as property rights. *L. A. Tucker Truck Lines* v. *U.S.*, 100 F. Supp. 432. The intended course of the Commission under its rules and pronouncements as reflected in the complaint virtually strips the complainants of all the protection sought to be afforded by the Procedure Act. This is exactly the sort of conduct the Administrative Procedure Act was intended to prevent:

"The Administrative Procedure Aet was framed as a check upon administrators whose zeal might otherwise carry them to excess not contemplated in the legislation creating their offices. It creates safeguards even narrower than the constitutional ones, against arbitrary official encroachment on private rights" (*U.S.* v. *Morton Salt Co.*, 338 U.S. 632).

It is not necessary to engage in extensive analysis of the terms of 42 U.S.C.A., section 1975. The Civil Rights Commission is so obviously an agency of the Government that argument to the contrary is facetious. It is equally obvious that there is no statement exempting the Commission from the provisions of the Administrative Procedure Act and any rules making authority the Commission may possess must be exercised only within the limitations placed upon it by the Administrative Procedure Act.

Mr. President, the Attorney General of the sovereign State of Arkansas is referring in this brief to the body which the Congress created in 1957, and into which it is proposed that we now breathe life for another 2 years.

Mr. President, we have more than assertions of unconstitutionality to face in assessing this proposal to extend the life of the Civil Rights Commission. We have a finding of the Court—not a State court—but a Federal court, mind you. The finding of the court to which I refer is in the decision of the U.S. District Court for the Western District of Louisiana in the case of Margaret M. Larche against John A. Hannah, rendered July 12, 1959. The order of the court is as follows:

RULING ON APPLICATIONS FOR TEMPORARY RESTRAINING ORDERS

We are called upon here to pass tentatively upon one of the burning issues of our time—the propriety and validity of the rules and proceedings of the Civil Rights Commission, as established by Congress in September 1957.

That Commission now proposed to hold a hearing, in the Federal courtroom at Shreveport, La., on July 13, 1959, to investigate purported violations of the civil voting rights of some 67 persons, who are said to have filed sworn complaints with the Commission. Pursuant to, and in implementation of, its plans, the Commission has caused subpenas, and subpenas duces tecum, to be served upon the plaintiffs in these suits, commanding them to be present and give testimony at the hearing, and requiring the 16 registrars of voters, who are plaintiffs in civil action No. 7479, to bring with them, for inspection and copying by the Commission, a large number of records from their offices.

These suits, brought against the members of the Commission, and the Commission itself, were filed on July 10, 1959, and are addressed to the equitable powers of this court. They seek to stay the effectiveness of the Commission's subpenas and subpenas duces tecum, and to restrain and enjoin the conduct of the proposed hearing itself, which, plaintiffs aver, under the rules of procedure adopted by the Commission, would violate their fundamental constitutional rights and cause them immediate and irreparable damage. Moreover, praying that a three-judge court be convened for that purpose, the registrar-plaintiffs ask that the act creating the Commission be declared violative of the Federal Constitution, and thus unenforcible.

Detailing their complaints, supported by sworn affidavits and exhibits attached (and here briefly paraphrased), the registrar-plaintiffs, in civil action No. 7479, allege that between June 29, 1959, and July 6, 1959, each of them was served with subpenas and subpenas duces tecum, issued by the Chairman of the Commission, commanding them to appear and testify before the Commission on July 13, 1959, and to bring their records with them; that they have not been informed of the nature of the complaint or complaints against them, nor have they been assured that they will be confronted with the complaining witnesses; that the Commission repeatedly has informed the attorney general of Louisiana, verbally and in writing, that it would not under any circumstances, furnish plaintiffs with, or permit them to examine the written complaints filed against them, nor would it divulge the name or names of the secret complainants, all of which is arbitrary and unreasonable, and in violation of plaintiffs' fundamental rights.

They further aver that they, at all times, have complied with the laws of the State of Louisiana, but that the subpenas served upon them would require them to violate such laws, in that the registrars' records legally may not be removed from their offices except upon an order of a competent court criminal penalties being provided for violations of these statutes; and that the Commission is not a competent court. Hence, they say, to comply with the subpenas, they would be violating the State laws, and subjecting themselves to the penalties thus provided.

These plaintiffs further allege that, attached to the subpenas served upon them was a mimeographed document entitled "Rules of Procedure for Hearings of the Commission on Civil Rights" in which appears the following: "(i) Interrogation of witnesses shall be conducted only by members of the Commission or by authorized staff personnel;" and that thereby plaintiffs are deprived of their constitutional right to cross-examine witnesses who may testify against them. They contend that the Commission and its members thus are acting in an ultra vires manner in (1) attempting to force the plaintiffs to testify at the proposed hearing without first advising them of the nature of the complaint or complaints existing; (2) without allowing plaintiffs to be confronted by the complaining witnesses; (3) not allowing plaintiffs to have counsel empowered to fully represent their interests in such hearing; (4) not allowing cross-examination of the complaining witnesses; and (5) causing irreparable damage to plaintiffs by requiring them to violate the laws of Louisiana, which would subject them to serious criminal penalties. In their brief they also urge, as a direct incident of the hearing itself, with unnamed and unknown witnesses testifying against them, not subject to cross-examination by plaintiff's counsel, that they will be wrongfully accused of violations of both Federal and State laws without adequate opportunity to disprove such accusations, and thus be held up, by the Commission's actions, to public opprobrium and scorn, all to their irreparable injury and damage.

They further contend that the Commission, being an agency of the executive branch of the Federal Government, is subject to the provisions of the Administrative Procedure Act and, as such, is required to state explicitly the charges against plaintiffs

to permit them to be confronted with the witnesses against them, and to allow their counsel fully to cross-examine such witnesses. Accordingly, these plaintiffs seek the relief hereinabove outlined.

In general, the plaintiffs in civil action No. 7480, who are individual citizens of Louisiana, make the same allegations and contentions as those in No. 7479, except that they have not been called upon to produce any official records. They do not challenge the constitutionality of the act creating the Commission, but otherwise their prayer for relief is substantially similar to that in No. 7479.

Several days prior to July 10, 1959, we were advised by plaintiffs' counsel that they would file these suits on the date indicated. While, as a general rule, applications for temporary restraining orders are considered ex parte, solely on the face of the verified complaint and any attached documents, because of the national importance of the matters involved, we immediately notified counsel for the Commission, and its vice chairman, Hon. Robert G. Storey (a personal friend of the court of long standing), of our information, and invited them to be present for a hearing on the applications. The suits were filed at 1:30 p.m. on July 10, and at 2 p.m., in open court, these gentlemen, and counsel for plaintiffs, being present, we convened court, but immediately recessed in order to give the Commission's representatives opportunity to study the complaints and briefs filed by plaintiffs. At 3:30 p.m. we reconvened and heard oral arguments, from both sides, until 5:20 p.m., at which time the matter of the restraining orders was submitted for decision on the oral arguments and briefs filed by the proponents and opponents of the applications. We have considered the able arguments, studied the respective briefs and authorities cited, and now proceed to our ruling. Necessarily, because of the time element, we have been compelled, under great pressure, to consider the questions rather hastily, and we reserve the right to alter our views, if necessary, after more mature deliberation.

The Court has jurisdiction (28 U.S.C.A. secs. 1331, 1332, 2201, 2282, 2284. *Jones* v. *Securities Commission,* 298 U.S. 1, 56 S. Ct. 654, 80 L. Ed. 1015).

We are not strongly impressed with the registrar-plaintiffs' contention that the subpenas duces tecum, if complied with, would subject them to criminal penalties under Louisiana law. Literally, of course, if they directly complied without more, they are correct in their understanding of the State law. Practically, however, another and different aspect is presented, for under the Civil Rights Commission Act they can refuse to produce the records, without penalties of any kind, and the only recourse the Commission would have would be to request the Attorney General of the United States to apply to this court, under 42 U.S.C.A. 1975d(g) for an order requiring their production. Plaintiffs then would be protected against State prosecution by the very terms of LSA–R.S. 18:236, as well as by LSA–R.S. 18:169, for this court clearly is a "competent court," within the meaning of those statutes.

Likewise, plaintiffs would suffer no immediate Federal penalties under the act for refusal either to appear or to testify, but would be subject to an enforcement order from this court, which would see to it that their constitutional rights against self-incrimination are adequately protected. Moreover, under the act, since their counsel are entitled to be present, they could be advised, at each step of the proceedings, whether to claim the protection of the fifth amendment, even though, in this day, the general public has come to consider such a claim as tantamount to a plea of guilty, particularly in response to "loaded" questions.

We are strongly of the opinion, however, that plaintiffs' remaining grounds for immediate relief are well taken:

First, it appears rather clear, at this juncture, that the Civil Rights Commission is an "agency" of the executive branch of the United States, within the meaning of that term as defined at 5 U.S.C.A. section 1001(a). See also 42 U.S.C.A. section 1975(a). It performs quasi-judicial functions in its hearings, its fact findings, its studies of "legal developments constituting a denial of equal protection of the laws under the Constitution," and its appraisal of "the laws and policies of the Federal Government" in the same respect. It "adjudicates" by its rulings upon the admissibility of evidence at its hearings and by its determinations of what is or is not the truth in matters before it. Thus, we think that the Commission is subject to the provisions of section 4 of the Administrative Procedure Act, which requires, among other things that persons affected by agency action "shall be timely informed of the matters of fact and law asserted." Here that would encompass the nature of the charges filed against plaintiffs, as well as matters of fact and law wherein the complainants' voting rights allegedly have been violated. The Commission also is subject to section 6 which would require it to grant plaintiffs the right "to conduct such cross-examination as may be required for a full and true disclosure of the facts." This, by its rules, the Commission refuses to do, and in so doing, regardless of its well-intentioned motives, it violates the terms of that act. Plaintiffs are entitled, therefore, to protection against hese rules, which would deprive them of their plain rights under the act.

Second, while the statute creating the Commission inferentially permits it to adopt reasonable rules, 42 U.S.C.A. section 1975(b), there is no provision whatsoever in the law to the effect that such rules may include those here complained of, which plainly violate plaintiffs' basic rights to know in advance with what they are charged, to be confronted by the witnesses against them, and to cross-examine their accusers. We cannot believe that Congress intended to deny these fundamental rights to anyone, and because of such belief it is our opinion that these rules of the Commission are ultra vires and unenforcible. Therefore, plaintiffs are entitled to immediate relief against them.

Third, entirely aside from the statutory questions just discussed, the courts of the United States, and their Anglo-Saxon predecessors, always have seen to it that, in hearings or trials of all kinds, persons accused of violating laws must be adequately advised of the charges against them, confronted by their accusers, and permitted to search for the truth through thorough cross-examination. In *Jones* v. *Securities Commission* (298, sec. 1, 27, 57 S. Ct. 654, 80 L. Ed. 1015), the Supreme Court said:

"A general, roving, offensive, inquisitorial, compulsory investigation, conducted by a commission without any allegations, upon no fixed principles, and governed by no rules of law, or of evidence, and no restrictions except its own will, or caprice, is unknown to our Constitution and laws; and such an inquisition would be destructive of the rights of the citizen, and an intolerable tyranny. Let the power once be established and there is no knowing where the practice under it would end.

"The fear that some malefactor may go unwhipped of justice weighs as nothing against this just and strong condemnation of a practice so odious.

"The philosophy that constitutional limitations and legal restraints upon official action may be brushed aside upon the plea that good, perchance, may follow, finds no countenance in the American system of government. An investigation not based upon specified grounds is quite as objectionable as a search warrant not based upon specific statements of fact. Such an investigation, or such a search, is unlawful in its inception and cannot be made lawful by what it may bring, or by what it actually succeeds in bringing to light."

In *Morgan, et al.* v. *United States, et al.* (304 U.S. 1, 14, 20, 25, 58 S. Ct. 773, 82 D. Ed. 1129), involving an administrative hearing the Court said:

"The first question goes to the very foundation of the action of administrative agencies entrusted by the Congress with broad control over activities which in their detail cannot be dealt with directly by the legislature. The vast expansion of this field of administrative regulation in response to the pressure of social needs is made possible under our system by adherence to the basic principles that the legislature shall appropriately determine the standards of administrative action and that in administrative proceedings of a quasi-judicial character the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play. These demand 'a fair and open hearing,' essential alike to the legal validity of the administrative regulation and to the maintenance of public confidence in the value and soundness of this important governmental process. Such a hearing has been described as an 'inexorable safeguard.'

"The answer that the proceeding before the Secretary was not of an adversary character, as it was not upon complaint but was initiated as a general inquiry, is futile. It has regard to the mere form of the proceeding and ignores realities.

"Those who are brought into contest with the Government in a quasi-judicial proceeding aimed at the control of their activities are entitled to be fairly advised of what the Government proposes and to be heard upon its proposals before it issues its final command."

In the most recent decision on this subject, handed down by the Supreme Court on June 29, 1959, *Greene* v. *McElroy,* No. 180 October 1958 Term — U.S. —, — S. Ct. —, — L. Ed. —, 29 L. W. 4528, 4534, 4538, and speaking through Chief Justice Warren, the following language is found:

"Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealously. We have formalized these protections in the requirements of confrontation and cross-examination. They have ancient roots. They find expression in the sixth amendment which provides that in all criminal cases the accused shall enjoy the right 'to be confronted with the witnesses against him.' This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, e.g., *Mattox* v. *United States,* 156 U.S. 237, 242–244; *Kirby* v. *United States,* 174 U.S. 47; *Motes* v. *United States,* 178 U.S. 458, 474; *In re Oliver,* 333 U.S. 257, 273, but also in all types of cases where administrative and regulatory action were under scrutiny. E.g., *Southern R. Co.* v. *Virginia,* 290 U.S. 190; *Ohio Bell Telephone Co.* v. *Commission,* 301 U.S. 292; *Morgan* v. *United States,* 304 U.S. 1, 19; *Carter* v. *Kubler,* 320 U.S. 243; *Reilly* v. *Pinkus,* 338 U.S.

269. Nor, as it has been pointed out, has Congress ignored these fundamental requirements in enacting regulatory legislation. *Joint Antifascist Committee* v. *McGrath,* 341 U.S. 168–169 (concurring opinion)."

Professor Wigmore, commenting on the importance of cross-examination, states in his treatise, 5 Wigmore on Evidence (3d Ed. 1949) section 1367:

"For 2 centuries past, the policy of the Anglo-American system of evidence has been to regard the necessity of testing by cross-examination as a vital feature of the law. The belief that no safeguard for testing the value of human statements is comparable to that furnished by cross-examination, and the conviction that no statement (unless by special exception) should be used as testimony until it has been probed and sublimated by that test, has found increasing strength in lengthening experience.

"Where administrative action has raised serious constitutional problems, the Court has assumed that Congress or the President intended to afford those affected by the action the traditional safeguards of due process. See, e.g., The *Japanese Immigrant* case, 189 U.S. 86, 101; *Dismuke* v. *United States,* 297 U.S. 167, 172; *Ex parte Endo,* 323 U.S. 283, 229–300; *American Power Co.* v. *Securities and Exchange Commission,* 329 U.S. 90, 107–108; *Hannegan* v. *Esquire,* 327 U.S. 146, 156; *Wong Yang Sung* v. *McGrath,* 339 U.S. 33, 49. Cf. *Anniston Mfg. Co.* v. *Davis,* 301 U.S. 337; *United States* v. *Rumely,* 345 U.S. 41. These cases reflect the Court's concern that traditional forms of fair procedure not be restricted by implication and without the most explicit action by the Nation's lawmakers, even in areas where it is possible that the Constitution presents no inhibition."

These authorities, therefore, clearly establish additional reasons why plaintiffs should be granted immediate relief.

Fourth, there is every reason to believe, considering that the Commission has announced its receipt of complaints from some 67 persons, that those persons will testify that plaintiffs have violated either the State or Federal laws, or both. Plaintiffs thus will be condemned out of the mouths of these witnesses, and plaintiffs' testimony alone, without having the right to cross-examine and thereby to test the truth of such assertions, may not be adequate to meet or overcome the charges, thus permitting plaintiffs to be stigmatized and held up, before the eyes of the Nation to opprobrium and scorn. Moreover, not knowing in advance the exact nature of the charges to be made against them, some of the plaintiffs, whose official domiciles are at varying distances up to 250 miles from Shreveport, may not be able physically to obtain the presence of witnesses of their own, who might negative or disprove the claims of the complaining witnesses, especially since the Commission has announced that its hearing will last only 1 day.

These are further solid reasons, showing possible or probably irreparable injury to plaintiffs, which justify their being granted immediate relief.

Fifth, and finally, plaintiffs raise very serious questions regarding the validity—the constitutionality—of the very Act which created the Commission. We do not intimate here any opinion as to the constitutionality of the statute, for that is a matter to be decided by the three-judge court to be convened by the chief judge of this circuit. However, the seriousness of the attack must be noted in considering whether a temporary restraining order should be issued, to stay the effectiveness of the statute until its validity vel non can be determined by the three-judge court after hearing on plaintiffs' application for an interlocutory injunction. See *Ohio Oil Co.* v. *Conway,* 279 U.S. 813, 49 S. Ct. 256, 73 L. Ed. 972, where the Supreme Court stated, in a per curiam opinion:

"The application for an interlocutory injunction was submitted on ex parte affidavits which are harmonious in some particulars and contradictory in other. The affidavits, especially those for the defendant, are open to the criticism that on some points mere conclusions are given instead of primary facts. But enough appears to make it plain that there is a real dispute over material questions of fact which cannot be satisfactorily resolved upon the present affidavits and yet must be resolved before the constitutional validity of the amendatory statute can be determined.

"Where the questions presented by an application for an interlocutory injunction are grave, and the injury to the moving party will be certain and irreparable if the application be denied and the final decree be in his favor, while if the injunction be granted the injury to opposing party, even if the final decree be in his favor, will be inconsiderable, or may be adequately indemnified by a bond, the injunction usually will be granted. *Love* v. *Atchison, Topeka & Sante Fe R. Co.,* 185 Fed. 321, 331–332."

In *Crockett* v. *Hortman,* 101 F. Supp. 111, 115, at page 115, Judge Wright, of the Eastern District of Louisiana, dealing with the constitutionality of a State statute, said:

"Whereas here the questions presented by an application for a temporary injunction are grave, and the injury to the moving parties will be certain and irreparable if the application be denied and the final decree be in their favor, while if the injunction be granted the injury to opposing parties, even if the final decree be in their favor, will be inconsiderable, the injunction should be granted. *Ohio Oil Co.* v. *Conway,* 279 U.S. 813, 49 S. Ct. 256, 73 L. Ed. 972.

"The determination of the grave constitutional issues presented in this case should not be decided without a trial on the merits, *Polk Co.* v. *Clover,* 305 U.S. 5, 59 S. Ct. 15, 83 L. Ed. 6, and a temporary injunction should be issued in order that the status quo may be preserved until that time."

To the same effect, see also *Burton, et al.,* v. *Matanuska Valley Lines, Inc.,* 244 F. 2d 647.

This, then, is another ground upon which plaintiffs are entitled to the immediate relief they seek.

For these reasons, the application for temporary restraining orders will be granted.

Thus done and signed, in chambers, at Shreveport, La., on this the 12th day of July 1959.

Mr. President, how can we, in the face of this court order, extend the life of the Civil Rights Commission without violating the oath of each of us to uphold the Constitution? Would not such an extension necessarily imply congressional endorsement of the rules of the Commission, and of the Commission's disinclination to act pursuant to the Administrative Procedure Act? We need to remind ourselves that we are here to uphold the Constitution and represent the people of the several States—not to vent our emotions in legislation or advance our personal political fortunes.

The fact that an appeal from the District Court decision is now pending before a three-judge court does not mitigate against my point, Mr. President. In fact, it emphasizes its validity. The court on appeal could not ignore the action of Congress in extending the life of the commission. Necessarily and properly, the court would have to assume that Congress acted with full knowledge of the order of injunction.

Mr. President, for what purpose do the proponents of this measure propose that Congress so flagrantly violate the Constitution? What is the nature of the goal which is so imperative that individual liberty must be trampled in the dust?

We can only judge the proposed future of the Civil Rights Commission on its past actions and record. It has functioned for a long enough period to appraise its worth. In 1957, the proponents of the so-called civil rights bill predicted that the commission would uncover the most dire and tragic situations existing in the field of voting rights. The record shows how wrong they were. As of June 30, 1959, the commission had received a total of only 1,036 complaints, sworn and unsworn. Out of these complaints, on any subject within the jurisdiction of the commission, only 254 were by sworn affidavits.

The number of complaints in the voting field is even more indicative of the lack of need for the Commission. Out of the millions of voters in this country, the Commission has received but 315 complaints, sworn and unsworn. In my own State of South Carolina there were three complaints, not a one of which was sworn. Even were there no constitutional question involved in the proposed extension of the commission's existence, we could not justify, from a simple policy standpoint, the expenditure of the funds necessary to sustain this useless agency.

No one knows the uselessness of the Commission, nor the folly of continuing it, better than those who served as members of the Commission. Their statements, although guarded, indicate an extreme lack of enthusiasm which belies any sense of accomplishment. As Dr. Hannah, the Chairman of the Commission, expressed it, that in the period he had tried it, he had found "there is no right answer to all sides." His attitude is evidently shared by his fellow Commissioners who have been reported as expressing reluctance to serve beyond the legal life of the Commission as established in 1957.

It is obvious, Mr. President, that the attempt to extend the Commission is a propaganda effort, done in defiance of the Constitution.

Mr. TALMADGE. Mr. President, We Americans pride ourselves upon being a nation of charitable, understanding and tolerant people motivated by sincere concern for the welfare of humanity.

Yet for the second time in 2 years we in Congress find ourselves giving serious consideration to a proposal that it give its sanction to an agency of government which, by its own report, denies each of those noble impulses.

The Commission on Civil Rights is the antithesis of everything for which we Americans claim to stand.

It knows no charity.

It makes no pretense at understanding.

It is steeped in intolerance. Its report is a calculated insult to the people of the entire southern region of our Nation and to those of us who have the privilege

to serve their interests in the Senate of the United States.

As I contemplate this Commission, the doubtful motives of its sponsors and its alarming portent for evil and tragic results, I find it almost more than I can do to sustain the Christian charity to suppress the resentment which swells within me.

As one who has the honor to represent in part a conscientious and God-fearing people I would be derelict in my duty if I did not express to this Senate in the most emphatic terms at my command the virtually universal sense of outrage and indignation of the citizens of Georgia at being tied to the national whipping post year after year to be ridiculed, castigated, and punished for the political pleasure and gain of those whose stock in trade is racial demagoguery agitation and exploitation.

We in Georgia yield to no one in the sincerity or intensity of our adherence to the principles of justice, decency, and fair play for all.

We have no apologies to make to anyone for what we profess or practice.

To be sure we have our problems and our shortcomings, but we are trying to do something about them.

We make no pretense at being perfect.

Neither do we presume to sit in judgment on the imperfections of others.

In Georgia all children are receiving equal educational opportunities in a modernized public school system for which Georgians are paying 53 cents out of every tax dollar.

In Georgia all qualified citizens, including more than 160,000 colored citizens, are freely exercising the right to vote.

In Georgia economic opportunities for all citizens are being dramatically improved as the result of an industrial revolution which is reshaping our entire economy.

We are proud of the progress which all of our citizens are making working together and we are looking forward to achieving a future of better lives and greater prosperity for all Georgians.

Members of both races are living and working together in harmony and understanding and I am confident that, barring outside interference, that attitude of mutual trust and respect will continue and be enhanced to the benefit of all.

Georgians ask nothing more of the remainder of the Nation than to be left alone to work out our own destiny among ourselves in accordance with the wishes of all the people of Georgia and following the normal course of human relations.

We do not feel that we should be held up to public scorn and ridicule and made the targets of vicious and punitive attacks simply because some people in some States may take issue with our ideas about human relations—ideas which are enthusiastically shared by at least 95 percent of all our citizens.

That Georgia is succeeding in accordance with those ideas in giving the real and meaningful civil rights to all our citizens is attested to by no less a personage than Dr. John A. Hannah, Chairman of the Commission on Civil Rights.

In that connection I should like to read to the Senate the following colloquy between Dr. Hannah and the Honorable PRINCE PRESTON, Representative in Congress from the First District of Georgia which took place in hearings before the House Subcommittee on Departments of State and Justice, the Judiciary and related agencies appropriations on last April 30:

Mr. PRESTON. Dr. Hannah, what conclusions did you reach in Atlanta about housing?

Mr. HANNAH. Well, sir, we concluded that there was a story in Atlanta that could well be told to the country. Of course, there is some pretty poor Negro housing in Atlanta, as there is poor housing for Negroes and white folks in other sections of the country, but the Atlanta story is a very interesting story and the progress that has been made in providing an opportunity for Negroes to acquire middle-class, and high-class, housing—while it is true they are segregated in areas—they have some very fine communities. This has been a cooperative effort worked out voluntarily by the Negroes and the white people and the city leaders and the mayor and so on.

Frankly, I was surprised and pleased at what we found in the housing area in Atlanta, not because you happen to be a native of Georgia, but there is a better opportunity provided for middle-class and high-class housing for at least some of these Negroes in Atlanta than in many cities in my part of the country.

* * * * *

Mr. PRESTON. Have you found generally in the State of Georgia that the Negro population has no problem about registering and voting?

Mr. HANNAH. Well, from personal investigation, certainly in Atlanta and in many other areas that were brought into our discussions there, that is true.

I think there were some indications that perhaps there were some of the isolated rural areas where that might not be true, but I have no firsthand knowledge of that. It is my general impression the voting situation in Georgia is pretty good and getting much better.

Mr. PRESTON. In my own district there are one or two counties who have more Negro registered voters than white.

Mr. HANNAH. The Congressman recognizes that there are many counties in the South with large populations of Negroes where there is not even one registered.

Mr. PRESTON. You would not find that to be true in Georgia.

Mr. HANNAH. That is correct.

Mr. PRESTON. Georgia is one of the most progressive States in the Union and one of the most liberal States in the Union.

Mr. HANNAH. I believe that is right.

There, Mr. President, is the impression gained by one of our Nation's most able and respected educators about the status of human relations in my State of Georgia. I am sure there is no Member of this Senate who would presume to dispute the conclusion of so capable and disinterested an observer of the Georgia scene.

It is also most revealing, Mr. President, to study an analysis of the sources of the complaints received by the Commission on Civil Rights.

Statistical tables supplied me by the Commission show that, as of last June 30, of the 315 voting complaints received by the Commission from its inception through that date only one came from the State of Georgia and that one was unsworn. A comparison with some of the States from which much criticism of Georgia's ideas on human relations have come shows that twice as many complaints were received from the States of Illinois, Indiana, Missouri, Pennsylvania, and Wisconsin and an equal number from the States of New York and New Jersey.

On the basis of those figures, Mr. President, it is only fair to conclude that if any problem with relation to voting exists in the State of Georgia, the situation is twice as bad in the States of Illinois, Indiana, Missouri, Pennsylvania, and Wisconsin and equally as bad in the States of New York and New Jersey.

In the area of rights other than voting, the Commission reported to me that of the 664 complaints received only 19 came from Georgia. That figure, the agency disclosed, compares with 66 complaints from New York, 45 from California, 32 from Ohio, 25 from Pennsylvania, 24 from Illinois, and 22 from Missouri.

On the basis of those figures, Mr. President, it is only fair to conclude that if any problem with relation to civil rights other than voting exists in the State of Georgia, the situation is more than three times as bad in the State of New York, more than twice as bad in the State of California, more than one-and-a-half times as bad in the State of Ohio, and to lesser degrees worse in the States of Pennsylvania, Illinois, and Missouri.

I ask unanimous consent, Mr. President, to have printed herewith in the RECORD as a portion of my remarks the statistical tables furnished me by the Commission on Civil Rights analyzing the complaints received by the Commission from the time of its establishment through the end of the 1959 fiscal year last June 30.

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

COMMISSION ON CIVIL RIGHTS,
Washington, D.C.

Grand total all complaints received 1957–59	979
Voting	315
Regular	664
Total voting complaints received since Apr. 30, 1959	5
Total regular complaints received since Apr. 30, 1959	52
Total all complaints received since Apr. 30, 1959	57
Grand total voting complaints received 1957–59	315
Sworn affidavits in 13 States	254

JUNE 30, 1959.

Voting complaints, by States, June 30, 1959

State	Total	Sworn	Unsworn
Alabama	119	104	15
Arkansas	6		6
Florida	15	12	3
Georgia	1		1
Illinois	2	1	1
Indiana	2	1	1
Kansas	1		1
Kentucky	2		2
Louisiana	95	88	7
Maryland	1	1	
Massachusetts	1		1
Mississippi	41	40	1
Missouri	2	1	1
Nebraska	1		1
New Jersey	1		1
New York	1	1	
North Carolina	3	2	1
Oklahoma	2	1	1
Pennsylvania	2		2
South Carolina	3		3
Tennessee	7	1	6
Texas	1		1
Virginia	3		3
West Virginia	1	1	
Wisconsin	2		2
Total	315	254	61

COMMISSION ON CIVIL RIGHTS,
Washington, D.C.

Total complaints, other than voting, by States, June 30, 1959 (not required to be sworn)

Alaska	1
Alabama	23
Arizona	1
Arkansas	4
California	45
Colorado	3
Connecticut	7
Delaware	3
Florida	28
Georgia	19
Idaho	0
Illinois	24
Indiana	11
Iowa	6
Kansas	4
Kentucky	11
Louisiana	13
Maine	1
Maryland	5
Massachusetts	7
Michigan	16
Minnesota	2
Mississippi	6
Missouri	22
Montana	3
Nebraska	2
Nevada	1
New Hampshire	2
New Jersey	13
New Mexico	2
New York	66
North Carolina	13
North Dakota	0
Ohio	32
Oklahoma	5
Oregon	3
Pennsylvania	25
Rhode Island	1
South Carolina	13
South Dakota	2
Tennessee	16
Texas	24
Utah	2
Vermont	0
Virginia	18
Washington	10
Washington, D.C	15
West Virginia	4
Wisconsin	8
Wyoming	1
Foreign countries	4
Puerto Rico	3
Subtotal	550
Illegible, anonymous, abusive, etc	114
Total	664

Mr. TALMADGE. Georgians are proud of the fact that this official record proves that the overwhelming majority of the citizens of our State are satisfied with our present concept of human relations and the manner in which it is being translated into practical benefit for all.

Georgians are proud of the fact that our State, which is pursuing without ostentation, programs of uplift for all our citizens, has been found far less wanting in the provision and protection of real civil rights than many of the States outside the South which make a fetish of promising bigger and better synthetic rights while failing to produce fulfillment of the meaningful ones.

Georgians are proud of the fact that there have been no news stories about rapes, riots, and suicides in our public schools and no lengthy magazine articles about "powder keg" racial tensions in malodorous slum jungles.

In Georgia we do not have any conditions comparable in any respect to those described in an article featured in the August 3, 1959, issue of U.S. News & World Report under the heading: "Is New York Sitting on a Powder Keg?—Racial Unrest Forces Its Way to the Surface."

Mr. President, because the conditions described in this article stand in such sharp contrast to those which prevail in my State of Georgia, I ask unanimous consent that the full text of it be printed herewith in the RECORD as a portion of my remarks.

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

IS NEW YORK SITTING ON A POWDER KEG?—RACIAL UNREST FORCES ITS WAY TO THE SURFACE

(Tension is boiling to the surface in New York. Tempers, building up, can lead to real trouble between the races. Negro boycotts have developed. There are clashes between police and demonstrators. Harlem is in an angry mood. A member of the board of editors of U.S. News & World Report, at the scene, brings the explosive situation into focus.)

NEW YORK CITY.—Concern is growing here over a wave of racial unrest that threatens to engulf America's biggest and richest city.

New Yorkers are being warned by Police Commissioner Stephen P. Kennedy that "a race riot could cause more destruction of community relations than an atom bomb."

Harlem, the unofficial "Negro capital of America," is being described by one city official as "in an angry mood." Each night, crowds of Negroes gather on street corners to listen to soapbox orators who preach black supremacy and the downfall of the white man.

These and similar developments are coming into focus as a result of a single incident that took place on the sultry afternoon of July 13.

That trouble developed when two white policemen arrested a Puerto Rican woman accused of creating disorder in a Harlem restaurant. While she was being taken to the police station, the police car crashed into a safety island.

Within a matter of minutes, a crowd of angry Negroes, estimated at more than 200, gathered menacingly around the police. In the ensuing melee, the two policemen were hit by a bullet accidentally fired from one of their own revolvers.

In the hours that followed, 88 additional policemen were sent to Harlem, and police were reinforced in other Negro areas of the city.

A NEGRO OUTBREAK?

This incident, however, is only one of many in recent weeks in what New York's leading Negro newspaper hails as the outbreak of the "revolt of the Negro"—a revolt that some say will far surpass in scope and tension the bus strike of 1956 in Montgomery, Ala.

Here are some of the events taking place:

Ralph J. Bunche, a prominent Negro diplomat and educator, recently inquired about a membership for his son in the West Side Tennis Club, at Forest Hills, site of the U.S. championships and Davis Cup matches. Mr. Bunche stated that he was informed by the club's president, Wilfred Burglund, that Negroes and Jews were not admitted to membership.

In the wake of strong criticism from city officials and newspapers, Mr. Burglund resigned his post. The club has explained that its membership rolls are open to members of racial and religious minorities.

In Harlem, 40 tenement dwellers are staging a "rent strike" against white landlords who, they say, have refused to make sanitary repairs to rat-infested buildings.

Negroes are boycotting white-owned liquor stores in Harlem which refuse to buy wholesale supplies from Negro salesmen. Under pressure of Negro picketing, seven store owners have signed agreements stating: "I will refuse to continue doing business with any wholesaler who will not send as a representative a Negro salesman."

Thirteen other liquor stores have capitulated without waiting for pickets to show up. Now the New York chapter of the National Association for the Advancement of Colored People is promising to extend this drive to liquor stores in Negro areas across the city—and, eventually, to retail stores of every type that are located in Negro areas.

BOYCOTT OF BUSES

Another boycott is being threatened against the Fifth Avenue bus line after complaints from Negro passengers that they were getting discourteous and discriminatory treatment from white busdrivers.

The Negro revolt also is moving into New York City's public schools.

Last year, nine Negro parents refused to send their children to predominantly Negro schools on the ground that such schools were inferior in quality of teaching and curriculum. A court ruling last December upheld the parents' contentions that the schools were inferior and that the parents were within their legal rights in keeping their children out.

Now a drive is underway in Harlem to stage a mass sitdown of Negro parents next September unless Negro youngsters are permitted to enroll in predominantly white elementary and junior high schools of their choice. As a result, New York City is facing the possibility that some Negro children will be sitting out next year's school term.

Politically, a campaign is underway, led by Representative ADAM CLAYTON POWELL, Democrat, of New York, to force the Democratic machine—Tammany Hall—to give one in every three patronage jobs in New York City to a Negro or Puerto Rican.

NEGRO POWER GROWING

These separate developments, Negro leaders say, are not part of an organized push. But they are seen as proof of a growing population and of growing power of Negroes in this city.

An unofficial census in 1957 showed that 948,000 Negroes were living within the city. Today, their number is estimated at more than 1 million—more than in any other city

in the world. Negroes now account for about 15 percent of the city's population, as against only 5 percent in 1940.

A Negro, Hulan E. Jack, is president of the Borough of Manhattan. This job is generally rated second in importance only to that of mayor of New York City. Top-ranking jobs in many city departments are held by Negroes. There are a dozen or so Negro judges in city and State courts here. Altogether, Negroes hold an estimated one-third of the jobs in public transit and about 20 percent of the jobs in the city welfare department.

TROUBLES OF AN OPEN CITY

Until recently, this growth in power went relatively unnoticed in a city that takes pride in its reputation for racial tolerance.

New York City's officials openly promote the concept of an open city—a place where opportunity is provided equally for all races. Integration is the official policy, backed by a dozen State and city laws that forbid racial discrimination in jobs, public facilities, and housing. These laws are sternly enforced.

Last year, the city put into effect a revolutionary law—one that prohibits discrimination again apartment and homeseekers on grounds of race or religion. In the first 14 months of operation, 325 complaints of violation of this law have been made, and the claim is made that the law is helping many Negroes find apartments and homes once barred to them.

Yet many Negro leaders are saying now that these steps are only the beginning of measures to bring full equality to Negroes, and some say that New York City is entering on a phase of racial tension that is the most difficult yet encountered in this city.

EAST SIDE, WEST SIDE

Negroes are flowing out into every borough of the city—east side, west side, all around the town. More than 300,000 live in Brooklyn, about 125,000 live in Queens, and almost as many in the Bronx.

It is in Manhattan, however, and especially in Harlem, that most of the Negroes are to be found and that most of the trouble is developing. One reason for this, according to city officials, is that middle and upper-income Negroes more and more are moving out of Harlem tenements into better part of the city. What they have left behind is an exceptionally high proportion of low-income Negroes—many of them chronic troublemakers and criminals.

Along with that, Harlem tenements are described as among the worst in the city. Wide publicity is given day by day to the overcrowding of 122,000 people within an area only two-thirds of a square mile—an area where people often live 8 and 10 to a room and where police get daily reports of children bitten, sometimes seriously, by rats.

It is against this background that trouble is developing between Negroes and the police force in Harlem.

CHARGES, COUNTERCHARGES

Charges are heard that Negroes taken into custody are beaten up at police stations, that Negro women are slapped and kicked, that white policemen break into the homes of law-abiding Negroes without search warrants.

Officials at police headquarters acknowledge that some such instances have taken place and do take place. They also say that offending policemen are punished by demotion, fines, or both, upon proof of such offenses. But most such charges, they say, show up as groundless upon investigation.

Last year, 126 complaints of police brutality were filed in New York City—by whites as well as Negroes. A special hearing panel in the police department, after hearing these complaints, preferred charges against the policemen involved in nine cases. Seven of the nine were found guilty of brutality.

The July 13 outbreak of trouble between Harlem Negroes and police was not the first of this kind—nor, informed Negro leaders say, is it likely to be the last. One Negro says: "There is no doubt about it. People here don't like the police, they are suspicious of the police."

On at least two other occasions in the last 4 years threatening crowds of Negroes have gathered to protest police brutality. On a smaller scale, policemen who arrest a drunk or disorderly person in Harlem often find themselves the target of jeers from gatherings of anywhere from a handful to several dozen bystanders.

SEEKING COOPERATION

Police officials at this time are engaged in an intensive community relations campaign in Harlem. Efforts are being made to secure the support of law-abiding Negroes in reducing Harlem's crime rate. Meetings are held periodically with Harlem leaders. Recently Police Commissioner Kennedy warned:

"It (Harlem) is an extremely difficult area to police and the policemen themselves must have the support of the community. If they have to work in a community that is noncooperative, where prisoners are taken from them, it makes the policing problem that much more difficult."

Individual policemen are discouraged from making any comments that might stir up racial controversy. Privately, however, many of them express bitterness at what they describe as a lack of cooperation by Negroes, often in situations where their own lives are in jeopardy.

NEGRO "MUSLIMS"

What adds to this difficulty is a growth of a black nationalist movement that stirs up hatred of the white man.

This movement is spearheaded by a so-called Muslim sect, which claims a quarter of a million members among U.S. Negroes. Its leader calls himself Elijah Muhammad. He maintains headquarters in Chicago, but here in Harlem his chief lieutenant is a Negro who is known as Malcom Little but who also calls himself Malcom X.

On his periodic visits to Harlem, Muhammad draws crowds of 2,000 to 3,000 Negroes eager to hear the message of the spiritual leader of America's Muslims.

These listeners are being told that the white man is the greatest drunkard, greatest seducer, greatest murderer, greatest adulterer, greatest deceiver on earth. Negroes are promised that they will soon gain control of New York City—and that white rule in the United States will be overthrown by 1970. The sect's official magazine is headlined, "The Earth Belongs to the Black Nation—the First and the Last."

Nobody knows just how many New York Negroes belong to this sect. Conservative estimates run to somewhere between 7,000 and 10,000. The Muslims maintain a restaurant, along with a temple, where every person entering is searched.

Beyond these numbers, however, tens of thousands of Negroes are geting the racist message of Muhammad. Each night, crowds of Negroes gather at street corners in Harlem to listen to zealous young Muslims preaching from soap boxes. During the incident of July 13, one such orator picked up his box and, along with several dozen of his listeners moved down the street to incite further Negroes who were demonstrating against the two white policemen.

DANGEROUS FOR WHITES

Officially, this sect claims to deplore violence. But one Negro newsman reports that whites found on the outskirts of such gatherings are told by Negroes to move along if you don't want trouble—you're in our territory now. This newsman reports that, at such times, it is very definitely dangerous for whites to be in the area.

Many responsible Negroes in Harlem and other parts of New York City discount the influence of this sect, which, they say, enlists support mainly from unimportant Negroes here. But Negro newspapers give prominent coverage to the statements of "Muslim" leaders, and many leading Negro business and professional men are known to make substantial contributions to the sect.

What many fear is developing out of the revolt of the Negro here is growing tension between the races on both sides of the racial fence, white as well as black.

The move to hasten integration of New York City's schools by transporting elementary and junior high school students from Negro neighborhoods into less crowded schools in predominantly white neighborhoods is meeting opposition from white parents.

DON'T TREAD ON US

A few weeks ago, a group of white mothers from the Glendale section of Queens marched around City Hall carrying placards protesting the plan to transport about 1,000 children, most of them Negro or Puerto Rican, from overcrowded schools in Brooklyn to schools in Glendale.

Among the signs the white mothers carried was this: "Don't tread on us."

At the same time, in the same vicinity, Negro mothers also were picketing city hall with signs such as this one: "This is New York City—not Little Rock."

White homeowners and apartment dwellers in many parts of the city are moving out as Negroes spread out from Harlem. In Queens, one estimate is that it takes about 3 years for a neighborhood to change from white to black after the first Negro moves in.

In residential areas, New Yorkers are becoming more aware of their race problem than ever before. A white householder in Queens says:

"We're beginning to feel a coldness between the races. The other day, a Negro told me that his white neighbor doesn't talk to him now. My wife and I, in the past, have had Negroes to dinner in our home—and we still do. But now we look around to see if the neighbors notice it."

DIFFICULT SCHOOLS?

Top-rated teachers are bitterly protesting proposals that school officials assign them, regardless of their desires, to teaching posts at difficult schools which are composed mainly of Negro and Puerto Rican children. At present, such posts are filled on a voluntary basis, and many teachers have said they will seek employment elsewhere rather than be assigned to such schools.

Also stirring resentment among whites is the dispersal of Negroes across the city by means of public housing.

It is now the official policy of the city to discourage location of any public-housing projects in areas occupied mainly by Negroes and Puerto Ricans. Such projects, it is felt, will only build up ghettos, since 40 percent of all public housing for low-income families is occupied by Negroes and another 15 percent by Puerto Ricans.

As a result, about three-fourths of these families in public housing now live in racially integrated projects in predominantly white neighborhoods.

In such projects, white tenants and nearby residents are complaining of a rise in crime, juvenile delinquency, and dilapidation. White families are tending to move out of integrated projects. A Brooklyn project that was equally divided between whites and other groups only a few years ago, now is two-thirds Negro.

COST OF CRIME

New Yorkers are becoming aroused by the mounting costs of crime and welfare that have come to the city with the growth of this Negro population.

Unofficial estimates are that Negroes, with about 15 percent of the city's population, ac-

count for a third of its serious crimes. Many of these crimes are committed far beyond the borders of Harlem and other Negro areas. In some categories, such as rape and narcotics violations, the percentage of Negroes involved is believed to be considerably higher than for other offenses.

Negroes, together with Puerto Ricans, are estimated to account for about half of the city's welfare costs—and for a far bigger percentage of the aid to dependent children.

The answer of Negroes, and many white officials in this city, is that these problems can be solved only by providing Negroes and Puerto Ricans with better housing, better schools, and more job opportunities.

Negroes now are embarked on a revolt to gain those objectives. The result at this time is to bring New York City's racial troubles into the foreground, and fears are being expressed that these troubles are going to mount in the months ahead.

Mr. TALMADGE. I hope for the illumination of the Senate and the Nation, Mr. President, that the two eloquent and distinguished Senators from New York [Mr. JAVITS and Mr. KEATING]—both of whom are advocates of legislation to put the citizens of my State of Georgia in jail without jury trials merely for trying to shield white and colored citizens alike from conditions and situations such as prevail in New York—will address themselves to this subject and tell us just how such conditions and situations serve to advance the civil rights of the constituents they represent.

Mr. President, I believe it would be a fair and accurate summation of the attitude of the vast majority of Georgians to state that they feel it is an unconscionable act of hypocrisy for representatives of States and metropolitan areas which are unable to cope with their own worsening problems of human relations to attempt to force their discredited concepts of sociology upon other States and areas where those problems are virtually nonexistent and people of all races live together in harmony and mutual respect.

In that regard, I think all of us in this Senate could be best guided by the words of the Son of God when He said:

Judge not, that ye be not judged.

For with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again.

And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?

Or how wilt thou say to thy brother, Let me pull out the mote out of thine eye; and, behold, a beam is in thine own eye?

Thou hypocrite, first cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother's eye (Matthew 1: 1–5).

Mr. President, it is incomprehensible to the people of Georgia why the Congress of the United States must waste its time and the money of the American taxpayers seeking to enact contrived and unworkable solutions to problems which are not significant factors in our State when our country is confronted with so many real and pressing problems which demand thoughtful and effective solutions from Congress.

Georgians feel that Congress could do far more to justify its existence and to earn the confidence and respect of the Nation by doing something concrete to eliminate, or at least contain, the threat to present and future generations posed by the presence of increasing quantities of strontium 90 in the atmosphere and food supplies of the country; provide a realistic and meaningful national farm program which will guarantee the farmers of America their proportionate share of the national income; protect the jobs of American industrial workers from destruction as the result of indiscriminate imports of foreign-made goods manufactured at slave-wage levels; curb ever-increasing inflation, reverse the ever-mounting cost of living and restore the value and purchasing power of the American dollar; balance the Federal budget, hold Federal spending within the bounds of Federal income and begin a systematic program of reduction of the national debt; stimulate scientific and medical research to find and perfect as soon as humanly possible cures for and preventives of the dread killers and cripplers of mankind like cancer and heart disease; put an end to Government programs and policies which attempt to do for people in other countries what the United States either is unable or unwilling to do for our own citizens here at home; confine the Federal Government to programs and activities in those areas delegated to it by the Constitution and leave the management of all other affairs to local people on the local level; make the United States so secure militarily and economically that any nation daring to attack us invites not retaliation but annihilation; prevent any further encroachment upon the inalienable right of each citizen to be left alone to run his own affairs and to enjoy the fruits of his own labor.

Mr. President, in so acting, Congress could do more to promote the real civil rights of the American people than it ever could hope to achieve by passing a million force bills.

Mr. President, the American people have a right to ask of this Congress why it is concerning itself with legislation of the nature of the pending measure when so much of legitimate concern to all citizens has been left undone.

There is no more convincing argument against extending the life of the Commission on Civil Rights than the experience of the Commission itself.

Since its inception the Commission has been hard pressed to find enough evidence of deprivation of anyone's civil rights anywhere to keep its 69 full-time employees, 7 consultants, and 6 Commissioners busy. As noted in the tables which I have had inserted in the RECORD, despite all the publicity attendant to its establishment and authorized function, the Commission had received as of the end of the 1959 fiscal year only 979 complaints from throughout the Nation and its territories.

This fact prompted close questioning on the part of Congressman JOHN J. ROONEY, of New York, chairman of the House Appropriations Subcommittee, to which I have previously referred, at the hearing held by his subcommittee last April 30 on the Commission's requested appropriation for the current fiscal year.

The transcript of Representative ROONEY's questions and the replies by Commission Chairman Hannah and Commission Staff Director Gordon Tiffany is most illuminating. I read as follows from page 1196 of the printed record of the subcommittee's hearings for this year:

Mr. ROONEY. On the face of it, it does not look as though the Commission has had very much to do; is that a fair statement?

Mr. TIFFANY. When you consider that all these complaints call for field research in most instances and we have men out checking——

Mr. ROONEY. I am not talking about what you do when you get complaints. I am talking about the number you have received.

Mr. TIFFANY. I can only say that the mail file system calls for the numbering of each piece of mail that comes in. My best recollection is that in a recent week that number has been over 9,000.

Mr. HANNAH. I should point out, Mr. Chairman, the Commission has other responsibilities than to answer complaints.

Mr. ROONEY. We understand that, Doctor. I think you mentioned four responsibilities a while ago, did you?

Mr. HANNAH. Yes, sir.

Mr. ROONEY. I cannot help but be impressed by the small number of complaints that you have here. If my impression is wrong, I wish you would dispel it.

Mr. TIFFANY. We attach great significance, Mr. Chairman, to the denial of the right to vote in any single instance. We believe the numbers are shocking and that is all that I can say.

It is further most interesting to note, Mr. President, on page 1191 of the same hearings the statement by Chairman Hannah that "the work of the Commission is centered around its report which will be given to the Congress on or before September 9, 1959."

Thus, Mr. President, it is obvious that the Commission report which we of this 86th Congress have received embracing recommendations affecting the lives, liberty, and property of 177 million Americans is based solely upon, first, what Mr. Tiffany believes; and, second, a mere 979 complaints—of which at least 114 admittedly are the work of cranks and motivated busybodies and only 254 were made in the form of sworn affidavits.

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

Mr. TALMADGE. I am delighted to yield to the distinguished Senator from North Carolina.

Mr. ERVIN. The Senator has mentioned statements which were made by officials of the Civil Rights Commission when they applied to the House committee for an appropriation for the Commission. I should like to ask the Senator whether the testimony then presented by the officials of the Civil Rights Commission showed these things: First, that they had a staff at that time of 75 employees, who were receiving an average annual salary of between $7,000 and $7,500; and that the Commission was receiving verified voting rights complaints at the rate of one-half complaint per month for each of those employees.

Mr. TALMADGE. The Senator is approximately correct. I recall that there 69 employees with the Commission at

the present time. I thank the Senator for his contribution.

Mr. President, it is inconceivable that this Congress and the responsible men and women who comprise it will rely on so flimsy and contrived an excuse to enact legislation which would strike at the vitals of American liberty under the guise of protecting American citizens from bogeymen conjured up in the imaginations of appointed bureaucrats.

Why, Mr. President, I receive more mail in 2 months than the Commission on Civil Rights has received in 2 years, and I would point out to this Senate in all modesty that with the help of a staff only one-seventh the size of that of the Commission I am able, with very few exceptions, to reply to each letter I receive on the same day I receive it.

Therefore, Mr. President, I submit to the Senate that the only course of action indicated by the experience of the Commission on Civil Rights is to permit it to die the natural death contemplated for it by the law creating it. It has proved itself to be surplus property unneeded by either the Federal Government or the American people.

The cost of this Commission to the American taxpayers, as of June 30, was $977,000, which, according to the Library of Congress, included a transfer of $200,000 from the President's emergency fund in fiscal 1958, a fiscal 1959 appropriation of $750,000, and a supplemental appropriation of $27,000.

A little simple arithmetic shows this amounts to a cost of $997.96 for each complaint which the Commission has received and, I believe, even the most partisan observer will have to admit in honesty that that is a pretty steep price tag for investigating any complaint of any nature. I am sure that any of our law enforcement agencies would be overjoyed to receive an appropriation of one-tenth of that amount for each case they are called upon to investigate and process.

And, as if that were not enough, Mr. President, this Congress already has appropriated another $288,000 to carry the Commission through its November 8, 1959, expiration date and it is now proposed that Congress, in voting to extend its life, also approve an additional appropriation of $500,000 for the remainder of the 1960 fiscal year.

To those in the Senate who are interested in economy in Government, I would suggest that here is an excellent place to start practicing what is being preached.

Fortunately for the Nation the Commission to date has been composed of honorable and sincere men and I shudder to think of the witch hunts to which the American people could have been subjected during the past 2 years had such not been the case.

And I also shudder to think what likely will happen should the life of the Commission be extended and the at least four members of it who have stated that they plan to resign in such an eventuality are replaced by a second string of motivated zealots.

The fact that at least four of the present honorable members of the Commission do plan to quit can be construed as nothing less than their repudiation of the sham which the Commission is and of their desire to cease lending it the respectability of their names and prestige.

More eloquent than the report which Mr. Tiffany wrote for the Commission is the statement of Dr. Hannah, as reported in the Washington Star of March 16, 1959, that he is going to quit because he has found—and I quote him—"there is no right answer to all sides."

The article in the Star, published under the heading "Four on Rights Board To Quit After November," and written by Star staff writer, Howard L. Dutkin, gives a significant insight into the thinking of a majority of the members of the Commission in this regard.

I ask unanimous consent, Mr. President, to have the article printed in the RECORD at this juncture in my remarks.

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

FOUR ON RIGHTS BOARD TO QUIT AFTER NOVEMBER

(By Howard L. Dutkin)

At least four out of five members of the Civil Rights Commission as originally appointed plan to quit their posts as soon as possible after the life of the Commission expires in November, even though Congress may extend it another 2 years.

Chairman John A. Hannah said, "There is no question we would like to be freed of our responsibility if Congress extends the Commission."

The members recognized when they accepted the Presidential appointments in 1957 that "it was a tough assignment and that chances were pretty good for a lambasting from both sides," Dr. Hannah said.

However, he said, he decided to "try it for 2 years." In that time, he said, he has found "there is no right answer to all sides."

Dr. Hannah is president of Michigan State University. He was interviewed by telephone from his office in East Lansing.

SOME MIGHT STAY BRIEFLY

While stating that "my guess is that the Commissioners won't be around" after next November, Dr. Hannah indicated some of them might help out for a while longer if a brandnew Commission "finds the going tough."

Commissioner Robert G. Storey also said he would not wish to continue with the Commission after November. He said he accepted the post with the understanding that it would be a 2-year job. He said his other responsibilities preclude his staying longer. Commissioner Storey is dean of the Southern Methodist University Law School, Dallas.

Another Commission member, the Reverend Theodore M. Hesburgh, definitely said he would not continue to serve even though the Commission is extended and the President asks him to. Father Hesburgh is president of Notre Dame University.

"TIME CONSUMING"

"We are all extremely busy men with commitments apart from Commission work," Father Hesburgh said.

The work of the Commission, he said, is "time consuming" and an added "pack on our backs." He said the Commissioners all have been "working like mad" to finish the report on the civil rights picture involving racial discrimination in several fields, including education, voting, and housing.

Doyle E. Carlton, a former Governor of Florida and a member of the Commission, said he feels as the others do about desiring to wind up the task and devote themselves to other affairs this fall.

Senate delay in confirming the Commissioners and Staff Director Gordon E. Tiffany hampered the group's activities at the outset.

The Commissioners were sworn in by the President in January 1958. Two months elapsed before confirmation. Mr. Tiffany was nominated for the post in February 1958, but was not confirmed until May.

The other original member, former Gov. John S. Battle of Virginia, was not available for comment. It was reported, however, that he also would not serve longer than the original term.

It was understood that Dr. George M. Johnson, former dean of Howard University, appointed to the Commission last week will continue to serve if he is confirmed by the Senate and the life of the Commission is extended 2 years as requested by the administration.

Dr. Johnson succeeded J. Ernest Wilkins, who died several months ago.

Mr. TALMADGE. It is ironic to note, Mr. President, that the Commission on Civil Rights—even though composed of honorable and respected men—has found it necessary to spend more time attempting to justify its own right to exist than in investigating complaints of denial of the civil rights of individual citizens.

It is most interesting, Mr. President, to compare the warnings uttered on this floor about the dangers inherent in the creation of such a Commission and the actual results of the Commission's activities since its creation in the face of those warnings.

That the fears which were expressed in 1957 were not without foundation have been given official judicial recognition in the order issued exactly 2 years to the day later—on July 12, 1959—by U.S. District Judge Ben C. Dawkins, Jr., in the U.S. District Court for the Western District of Louisiana enjoining the Commission on Civil Rights from holding contemplated hearings in that State.

In order that a comparison might be made between what was predicted and what has happened, I ask unanimous consent, Mr. President, that the conclusions of Judge Dawkins' order be printed at this point in the RECORD as a portion of my remarks.

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

CONCLUSIONS OF U.S. DISTRICT JUDGE BEN C. DAWKINS, JR., OF U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, IN RULING ON APPLICATIONS FOR TEMPORARY RESTRAINING ORDERS JULY 12, 1959, IN CASE OF MRS. MARGARET M. LARCHE ET AL. *v.* JOHN A. HANNAH ET AL.

We are strongly of the opinion, however, that plaintiffs' remaining grounds for immediate relief are well taken:

First, it appears rather clear, at this juncture, that the Civil Rights Commission is an "agency" of the Executive branch of the United States, within the meaning of that term as defined at 5 U.S.C.A. section 1001(a). See also 42 U.S.C.A. section 1975(a) It performs quasi-judicial functions in its hearings, its fact findings, its studies of "legal developments constituting a denial of equal protection of the laws under the Constitution," and its appraisal of "the laws and policies of the Federal Government" in the same respect. It "adjudicates" by its rulings upon the admissibility of evidence at

its hearings and by its determinations of what is or is not the truth in matters before it. Thus we think that the Commission is subject to the provisions of section 4 of the Administrative Procedure Act, which requires, among other things that persons affected by agency action "shall be timely informed of the matters of fact and law asserted." Here that would encompass the nature of the charges filed against plaintiffs, as well as the matters of fact and law wherein the complaints' voting rights allegedly have been violated. The Commission also is subject to section 6 which would require it to grant plaintiffs the right "to conduct such cross-examination as may be required for a full and true disclosure of the facts." This, by its rules, the Commission refuses to do, and in so doing, regardless of its well intentioned motives, it violates the terms of that act. Plaintiffs are entitled, therefore, to protection against these rules, which would deprive them of their plain rights under the act.

Second, while the statute creating the Commission inferentially permits it to adopt reasonable rules, 42 U.S.C.A. section 1975(b), there is no provision whatsoever in the law to the effect that such rules may include those here complained of, which plainly violate plaintiffs' basic rights to know in advance with what they are charged, to be confronted by the witnesses againsts them, and to cross-examine their accusers. We cannot believe that Congress intended to deny these fundamental rights to anyone, and because of such belief it is our opinion that these rules of the Commission are ultra vires and unenforceable. Therefore, plaintiffs are entitled to immediate relief against them.

Third, entirely aside from the statutory questions just discussed, the courts of the United States, and their Anglo-Saxon predecessors, always have seen to it that, in hearings or trials of all kinds, persons accused of violating laws must be adequately advised of the charges against them, confronted by their accusers, and permitted to search for the truth through thorough cross-examination. In *Jones* v. *Securities Commission*, 298 U.S. 1, 27, 57 S. Ct. 654, 80 L. Ed. 1015, the Supreme Court said:

"A general, roving, offensive, inquisitorial, compulsory investigation, conducted by a commission without any allegations, upon no fixed principles, and governed by no rules of law, or of evidence, and no restrictions except its own will, or caprice, is unknown to our Constitution and laws; and such an inquisition would be destructive of the rights of the citizen, and an intolerable tyranny. Let the power once be establishd, and there is no knowing where the practice under it would end.

"The fear that some malefactor may be so unwhipped of justice weighs as nothing against this just and strong condemnation of a practice so odious * * *

"The philosophy that constitutional limitations and legal restraints upon official action may be brushed aside upon the plea that good, perchance, may follow, finds no countenance in the American system of government. An investigation not based upon specified grounds is quite as objectionable as a search warrant not based upon specific statements of fact. Such an investigation, or such a search, is unlawful in its inception and cannot be made lawful by what it may bring, or by what it actually succeeds in bringing to light."

In *Morgan et al.* v. *United States, et al.* 304 U.S. 1, 14, 20, 25, 58 S. Ct. 773, 82 L. Ed. 1129, involving an administrative hearing, the Court said:

"The first question goes to the very foundation of the action of administrative agencies entrusted by the Congress with broad control over activities which in their detail cannot be dealt with directly by the legislature. The vast expansion of this field of administrative regulation in response to the pressure of social needs is made possible under our system by adherence to the basic principles that the legislature shall appropriately determine the standards of administrative action and that in administrative proceedings of a quasi-judicial character the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play. These demand 'a fair and open hearing'—essential alike to the legal validity of the administrative regulation and to the maintenance of public confidence in the value and soundness of this important governmental process. Such a hearing has been described as an 'inexorable safeguard.' " * * *

* * * * *

"The answer that the proceeding before the Secretary was not of an adversary character, as it was not upon complaint but was initiated as a general inquiry, is futile. It has regard to the mere form of the proceeding and ignores realities.

"Those who are brought into contest with the Government in a quasi-judicial proceeding aimed at the control of their activities are entitled to be fairly advised of what the Government proposes and to be heard upon its proposals before it issues its final command."

In the most recent decision on this subject, handed down by the Supreme Court on June 29, 1959, *Greene* v. *McElroy* (No. 180, October Term — U.S. —, — S. Ct.—, — L. Ed. —, 29 L. W. 4528, 4534, 4538), and speaking through Chief Justice Warren, the following language is found:

"Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact-findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjures or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy. We have formalized these protections in the requirements of confrontation and cross-examination. They have ancient roots. They find expression in the sixth amendment which provides that in all criminal cases the accused shall enjoy the right 'to be confronted with the witnesses against him.' This court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, e.g., *Mattox* v. *United States*, (156 U.S. 237, 242–244); *Kirby* v. *United States* (174 U.S. 47); *Motes* v. *United States* (178 U.S. 458, 474); *In re Oliver* (333 U.S. 257, 273), but also in all types of cases where administrative and regulatory action were under scrutiny, e.g., *Southern R. Co.*, v. *Virginia* (290 U.S. 190); *Ohio Bell Telephone Co.* v. *Commission* (301 U.S. 292); *Morgan* v. *United States* (304 U.S. 1, 19); *Carter* v. *Kubler* (320 U.S. 243); *Reilly* v. *Pinkus* (338 U.S. 269). Nor, as it has been pointed out, has Congress ignored these fundamental requirements in enacting regulatory legislation. *Joint Anti-fascits Committee* v. *McGrath* (341 U.S. 168–169) (concurring opinion).

"Professor Wigmore, commenting on the importance of cross-examination, states in his treatise, 5 Wigmore on Evidence (3d Ed. 1940) section 1367:

"For two centuries past, the policy of the Anglo-American system of evidence has been to regard the necessity of testing by cross-examination as a vital feature of the law. The belief that no safeguard for testing the value of human statements is comparable to that furnished by cross-examination, and the conviction that no statement (unless by special exception) should be used as testimony until it has been probed and sublimated by that test, has found increasing strength in lengthening experience.

"Where administrative action has raised serious constitutional problems, the Court has assumed that Congress or the President intended to afford those affected by the action the traditional safeguards of due process. See, e.g., *The Japanese Immigrant* case, 189 U.S. 86, 101; *Dismuke* v. *United* U.S. 283, 299–300; *American Power Co.* v. *Securities and Exchange Comm'n*, 329 U.S. 90, 107–108; *Hannegan* v. *Esquire*, 327 U.S. 146, 156; *Wong Yang Sung* v. *McGrath*, 339 U.S. 33, 49. *Cf. Anniston Mfg. Co.* v. *Davis*, 301 U.S. 337; *United States* v. *Rumely*, 345 US. 41. These cases reflect the Court's concern that traditional forms of fair procedure not be restricted by implication and without the most explicit action by the Nation's lawmakers, even in areas where it is possible that the Constitution presents no inhibition."

These authorities, therefore, clearly establish additional reasons why plaintiffs should be granted immediate relief.

Fourth, there is every reason to believe, considering that the Commission has announced its receipt of complaints from some 67 persons, that those persons will testify that plaintiffs have violated either the State or Federal laws, or both. Plaintiffs thus will be condemned out of the mouths of these witnesses, and plaintiffs' testimony alone, without having the rights to cross-examine and thereby to test the truth of such assertions, may not be adequate to meet or overcome the charges, thus permitting plaintiffs to be stigmatized and held up, before the eyes of the Nation to opprobrium and scorn. Moreover, not knowing in advance the exact nature of the charges to be made against them, some of the plaintiffs, whose official domiciles are at varying distances up to 250 miles from Shreveport, may not be able physically to obtain the presence of witnesses of their own, who might negative or disprove the claims of the complaining witnesses, especially since the Commission has announced that its hearings will last only 1 day.

These are further solid reasons, showing possible or probable irreparable injury to plaintiffs, which justify their being granted immediate relief.

Fifth, and finally, plaintiffs raise very serious questions regarding the validity—the constitutionality—of the very act which created the Commission. We do not intimate here any opinion as to the constitutionality of the statute, for that is a matter to be decided by the three-judge court to be convened by the chief judge of this circuit. However, the seriousness of the attack must be noted in considering whether a temporary restraining order should be issued, to stay the effectiveness of the statute until its validity vel non can be determined by the three-judge court after hearing on plaintiffs' application for an interlocutory injunction. See *Ohio Oil Co.* v. *Conway*, 279 U.S. 813, 49 S. Ct. 256, 73 L. Ed. 972 where the Supreme Court stated, in a per curiam opinion.

"The application for an interlocutory injunction was submitted on ex parte affidavits which are harmonious in some particulars and contradictory in other. The affidavits, especially those for the defendant, are open to the criticism that on some points mere conclusions are given instead of primary facts. But enough appears to make it plain that there is a real dispute over material questions of fact which cannot be satisfactorily resolved upon the present affidavits and yet must be resolved before the constitutional validity of the amendatory statute can be determined.

* * * * *

"Where the questions presented by an application for an interlocutory injunction are grave, and the injury to the moving party will be certain and irreparable if the appli-

cation be denied and the final decree be in his favor, while if the injunction be granted the injury to opposing party, even if the final decree be in his favor, will be inconsiderable, or may be adequately indemnified by a bond, the injunction usually will be granted. *Love* v. *Atchison, Topeka & Santa Fe R. Co.*, 185 Fed. 321, 331–332."

In *Crockett* v. *Hortman*, 101 F. Supp. 111, 115, at page 115, Judge Wright, of the eastern district of Louisiana, dealing with the constitutionality of a State statute, said:

"Where as here the questions presented by an application for a temporary injunction are grave, and the injury to the moving parties will be certain and irreparable of the application be denied and the final decree be in their favor, while if the injunction be granted the injury to opposing parties, even if the final decree be in their favor, will be inconsiderable, the injunction should be granted. *Ohio Oil Co.* v. *Conway*, 279 U.S. 813, 49 S. Ct. 256, 73 L. Ed. 972.

"The determination of the grave constitutional issues presented in this case should not be decided without a trial on the merits, *Polk Co.* v. *Glover*, 305 U.S. 5, 59 S. Ct. 15, 83 L. Ed. 6, and a temporary injunction should be issued in order that the status quo may be preserved until that time."

To the same effect, see also *Burton et al* v. *Patanuska Valley Lines, Inc.*, 244 F. 2d 647.

This, then, is another ground upon which plaintiffs are entitled to the immediate relief they seek.

For these reasons, the applications for temporary restraining orders will be granted.

Thus done and signed, in chambers, at Shreveport, La., on this the 12th day of July 1959.

Mr. TALMADGE. Mr. President, the order of Judge Dawkins, portions of which I have inserted in the RECORD, should leave no doubt but that there exist substantial constitutional questions not only as to the procedures followed by the Comission on Civil Rights but also as to its very existence.

It is obvious, therefore, that even should the life of the Commission be extended by this 1st session of the 86th Congress, the major portion of its efforts for the next year or more will of necessity have to be directed toward defending both its rules and its existence before Federal courts of both original and appellate jurisdiction. Consequently, it goes without saying that any useful purpose which the Commission might by any stretch of the imagination have served has been hopelessly impaired by the legal attacks being made upon it.

Mr. President, it would be an affront to the American taxpayers to extend the life of this Commission when it has been shown conclusively by its own experience that its existence is not justified by the small number of actual cases of deprivation of civil rights in any section of our country and when substantial legal and constitutional questions regarding the validity of its existence are being pressed in the Federal courts.

An even more compelling reason for allowing this Commission to expire as scheduled is the arrogant and cynical bid for power over the lives and liberties of all Americans which its staff has written into the Commission's report.

That report is confirmation of the worst fears of those of us who opopsed the creation of the Commission 2 years ago.

The effect of carrying out its proposals would be to perpetuate that agency as an unconstitutional instrument of meddling and intimidation from which no facet of the lives, fortunes and sacred honor of the American people would be immune.

The variance between the drastic tenor of the report and the soft words of the public utterances of the Commission members prior to its issuance affords no conclusion but that the report is not the work of the Commissioners but rather of a radical Commission staff—a staff headed by a man about whom I expressed grave misgivings when confirmation of his nomination was before this Senate on May 14, 1958.

I stated at that time that "if the nominee for Commission staff director is any indication of what is to come then we had best prepare for the worst."

I declared on that occasion:

The position of staff director is a crucial one, and how its duties are carried out will determine whether the Commission becomes an instrument of tyranny and oppression or whether it is conducted as its more thoughtful adherents desire it to be.

It is a fundamental truth that the shape and direction of part-time commissions are often determined in large part by their full-time staff personnel, who prepare the agendas, establish the procedures, ask the questions, and ultimately prepare the reports which, generally, are accepted by the change of only a word or two or the striking or addition of a few sentences or words.

I would point out to this Senate, Mr. President, that the eventuality of which I warned more than a year ago has now come to pass.

How else can one reconcile the conciliatory words of Chairman Hannah before the Commission report was released with the arrogant and radicial recommendations for force legislation, executive dictatorship and unlimited Commission power set forth in the Commission report?

I submit to you, Mr. President, that the names signed to the Commission report may be Hannah, Hesburgh, Johnson, Storey, Carlton and Battle, but the work is that of Gordon MacLean Tiffany—a man who, when hearings were being held on his nomination, stated he felt it is proper for the Federal Government to send armed troops into a sovereign State to force a new social order on its people.

What is it that Mr. Tiffany now wants to do?

He wants to turn the Commission on Civil Rights into a national board of election registrars which could move into any State or political subdivision, register whomever it might please and force State and local officials to permit those persons to cast ballots regardless of whether they could meet the qualifications set forth by State law—qualifications which, incidentally, clearly are adopted by the Federal Government by the language of paragraph 1, section 2, article 1 of the Constitution of the United States.

He wants to turn the Commission on Civil Rights into a national school board which could go into any area and attempt to force classroom integration, regardless of whether the races in that area wanted to be integrated or whether the Federal courts had acted in the matter.

He wants to turn the constituent agencies of the Federal Housing and Home Finance Agency into instruments for forcing integration of residential neighborhoods throughout the Nation. He would accomplish that by withholding FHA and VA loans from builders and individuals who do not comply with his notions of sociology, by turning the public housing and urban renewal programs into a grandiose scheme for blockbusting with no concern for the wishes of property owners or the effect upon property values, and by setting up satellite commissions in all the major cities of the country to force and police integration in housing.

Mr. President, since at least four—and possibly five—members of the Commission already have indicated that they intend to resign, the only man who stands to benefit from the power which is proposed to be bestowed upon the Commission is Mr. Tiffany himself.

I submit to you, Mr. President, that the power which he has requested for the Commission is of such magnitude that I would not trust it in the hands of any one man or group of men—and most certainly not in the hands of Gordon MacLean Tiffany.

Mr. President, I am confident that if the American people knew of the dictatorship and tyranny proposed in the report of the Commission on Civil Rights they would rise up in righteous indignation and demand as one that this Congress not only not extend the life of the Commission, but, rather, abolish it immediately.

It is a report which is best summarized in the words of the dissenting report of Commissioner John S. Battle, as follows:

In my judgment it is not an impartial factual statement, such as I believe to have been the intent of Congress, but, rather, in large part, an argument in advocacy of preconceived ideas in the field of race relations.

Mr. RUSSELL. Mr. President, will my colleague yield to me?

Mr. TALMADGE. I am delighted to yield to my distinguished senior colleague.

Mr. RUSSELL. I have read various reports by committees and commissions of one kind or another, in the years during which I have served in legislative bodies; but the report of this Commission is the most cunningly drafted report I have ever seen. In the cases on which the Commission was divided equally—as it did on most of the important findings presented in the report—whoever wrote the report sought to make it appear that the three Commissioners who were in favor of the most vindictive and punitive measures against the white people of the South were the Commission, and that the other three, who also were members of the Commission, were just some outsiders who interposed a little objection.

Mr. TALMADGE. My colleague is entirely correct.

Mr. RUSSELL. The report is the most amazing demonstration of the use of words to obscure what really took place that I have ever seen.

Mr. TALMADGE. I agree wholeheartedly with my distinguished senior colleague.

Mr. RUSSELL. Anyone who reads the report would think, as he reads the parts of the report in which some very violent recommendations are made, recommendations on which the committee members were divided 3 to 3, that the three members who stood in favor of the most drastic measures to destroy the rights of the States and the social order of the South were—and that only they were—the legitimate, recognized members of the Commission, and that the three members who stood, in the old-fashioned way, for maintenance of the Constitution of the United States were, in some way, interlopers.

Mr. TALMADGE. I agree entirely with the conclusions of my senior colleague from Georgia.

As he knows, if any legislative group is divided equally—no matter whether it is divided 3 to 3, 6 to 6, or 50 to 50—no action is taken. So I seriously doubt that the Commission had any right to take the action it took in issuing the report, when a majority of the Commission could not be obtained to support the ideas or the proposals of some.

Mr. RUSSELL. That is entirely true of this Commission; and that goes to show how cunningly devised are the recommendations contained in the report.

Mr. TALMADGE. Mr. Tiffany did that very skillfully, as my colleague has said.

Mr. RUSSELL. Is it not also interesting to note that although the Commission's staff obviously went to very great lengths in their attempts to obtain complaints on which the Commission could act—traveling here and there and "beating the bushes" in their efforts to obtain large numbers of complaints—only 974 complaints have been filed with the Commission thus far?

Mr. TALMADGE. Yes; 974 complaints were the most they could obtain, despite the most valiant efforts they could contrive.

Mr. ERVIN. Mr. President, will the Senator from Georgia yield to me for a question?

Mr. TALMADGE. I am glad to yield to my distinguished friend, the Senator from North Carolina.

Mr. ERVIN. Is not the report tantamount to an attempt to make it appear that the jury reached a unanimous verdict, whereas, in truth and in fact, the jury was deadlocked, three to three?

Mr. TALMADGE. The Senator from North Carolina, distinguished jurist that he is, is entirely correct; and he knows, too, that when a jury is equally divided, the jury should be discharged—which is exactly what should be done with the Civil Rights Commission.

Mr. THURMOND. Mr. President, will the Senator from Georgia yield to me?

Mr. TALMADGE. I yield to my friend, the Senator from South Carolina.

Mr. THURMOND. I wish to commend the Senator from Georgia for the outstandingly able address he is delivering.

Mr. TALMADGE. I thank the Senator from South Carolina. Let me say that it was a pleasure to me to listen, a few minutes ago, to the admirable address he delivered. I believe he devastatingly pointed out the fallacies in the arguments made by some of our friends who come from other States, and who, although they do not have the answers to the serious problems which exist in their own States, pretend that they know the answers to the problems of the entire Nation.

Mr. THURMOND. Certainly that is the case.

I ask the Senator from Georgia whether it is true that the Civil Rights Act of 1957 dealt only with voting, and not with other fields?

Mr. TALMADGE. That is entirely my recollection.

Mr. THURMOND. But has not the Commission done now what the distinguished Senator from Georgia and I and others predicted it would do—namely, gone into the field of racial tensions, and come out with a report which is very warped, very integrationist, very anti-South, and certainly very un-American?

Mr. TALMADGE. The Senator from South Carolina is correct. The Commission has tried to set itself up as the final arbiter of voting, education, and housing, and is making recommendations that the executive branch of the Government do by Executive order that which Congress has no authority to do.

Mr. THURMOND. And was not one of the arguments that was made in favor of the establishment of the Commission that it would be in operation for a period of only 2 years, and then would end? But in this case has not the same thing happened that happens whenever a Federal agency is created for a brief time, namely, it finally becomes, or endeavors to become, a permanent agency?

If we extend the life of this agency, is it not likely that there will be a desire on the part of some to extend it further, and eventually to make it a permanent agency?

Mr. TALMADGE. That is entirely correct. I do not recall any Federal agency that ever was created that did not seek to be extended again and again, and forever, and did not want more funds, more authority, and more personnel. That is exactly what this agency is requesting.

Mr. THURMOND. This agency is requesting half a million dollars a year, is it not?

Mr. TALMADGE. Yes, in fact, in excess of half a million dollars a year.

Mr. THURMOND. Did not the Senator from Georgia say that in today's newspapers there appears an article by one member of the Commission's staff who advocates that the Commission be allotted double that amount, so it can go further into these questions and these issues, with the result of creating racial tensions and racial hatreds?

Mr. TALMADGE. That is correct.

In fact, if the proposed extension is permitted, it will not be very long before the Commission will even try to delve into family units, in an attempt to determine whether the mother and the father of the children discriminate against the children. That is the ultimate goal of every arbiter of human relations—to regulate the family.

Mr. THURMOND. I wish to congratulate the Senator.

Mr. TALMADGE. I thank my distinguished friend from South Carolina.

In order that all might be familiar with these alarming recommendations, Mr. President, I ask unanimous consent that they—as contained in the publication "Excerpts From Report of the U.S. Commission on Civil Rights"—be printed herewith in the RECORD as a portion of my remarks.

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

Therefore, the Commission recommends that the Bureau of the Census be authorized and directed to undertake, in connection with the census of 1960 or at the earliest possible time thereafter, a nationwide and territorial compilation of registration and voting statistics which shall include a count of individuals by race, color, and national origin who are registered, and a determination of the extent to which such individuals have voted since the prior decennial census.

Therefore, the Commission recommends that the Congress require that all State and territorial registration and voting records shall be public records and must be preserved for a period of 5 years, during which time they shall be subject to public inspection, provided that all care be taken to preserve the secrecy of the ballot.

Therefore, the Commission recommends that part IV of the Civil Rights Act of 1957 (42 U.S.C. 1971) shall be amended by insertion of the following paragraph after the first paragraph in section 1971(b):

"Nor shall any person or group of persons, under color of State law, arbitrarily and without legal justificatoin or cause, act, or being under duty to act, fail to act, in such manner as to deprive or threaten to deprive any individual or group of individuals of the opportunity to register, vote and have that vote counted for any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegate or Commissioner for 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."

Therefore, the Commission recommends that in case of contumacy or refusal to obey a subpena issued by the Commission on Civil Rights (under sec. 105(f) of the Civil Rights Act of 1957) for the attendance and testimony of witnesess or the production of written or other matter, the Commission should be empowered to apply directly to the appropriate U.S. district court for an order enforcing such subpena.

Therefore, it is recommended that, upon receipt by the President of the United States of sworn affidavits by nine or more individuals from any district, county, parish, or other recognized political subdivision of a State, alleging that the affiants have unsuccessfully attempted to register with the duly constituted State registration office, and that the affiants believe themselves qualified under State law to be electors, but have been denied the right to register because of race, color, religion, or national origin, the President shall refer such affidavits to the Commission on Civil Rights, if extended.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State or by any person for any cause except inability to meet State age or length-of-residence requirements uniformly applied to all persons within the State, or legal confinement at the time of registration or election. This right

to vote shall include the right to register or otherwise qualify to vote, and to have one's vote counted.

Therefore, the Commission recommends: 1(a) That the President propose and the Congress enact legislation to authorize the Commission on Civil Rights, if extended, to serve as a clearing house to collect and make available to States and to local communities information concerning programs and procedures used by school districts to comply with the Supreme Court mandate either voluntarily or by court order, including data as to the known effects of the programs on the quality of education and the cost thereof.

1(b) That the Commission on Civil Rights be authorized to establish an advisory and conciliation service to assist local school officials in developing plans designed to meet constitutional requirements and local conditions; and to mediate and conciliate, upon request, disputes as to proposed plans and their implementation.

Therefore, the Commission recommends: That the Office of Education of the Department of Health, Education, and Welfare, in cooperation with the Bureau of the Census of the Department of Commerce, conduct an annual school census that will show the number and race of all students enrolled in all public educational institutions in the United States, and compile such data by States, by school districts, and by individual institutions of higher education within each State. Further, that initially this data be collected at the time of the taking of the next decennial census, and thereafter from official State sources insofar as possible.

More than $2 billion a year of Federal funds go for educational purposes and to educational institutions. The principal recipients of these funds are the Nation's colleges, universities, and other institutions of higher education. Whether tax-supported or privately financed, they receive Federal grants and loans both for their general support and capital improvements as well as for research projects, special programs, and institutes.

The Commission recommends that an appropriate biracial committee or commission on housing be established in all cities and States with substantial nonwhite populations. Such agencies should be empowered to study racial problems in housing, receive and investigate complaints alleging discrimination, attempt to solve problems through mediation and conciliation, and consider whether these agencies should be strengthened by the enactment of legislation for equal opportunity in areas of housing deemed advisable.

That the President issue an Executive order stating the constitutional objective of equal opportunity in housing, directing all Federal agencies to shape their policies and practices to make the maximum contribution to the achievement of this goal, and requesting the Commission on Civil Rights, if extended, to continue to study and appraise the policies of Federal housing agencies, to prepare and propose plans to bring about the end of discrimination in all federally assisted housing, and to make appropriate recommendations.

That the Administrator of the Housing and Home Finance Agency give high priority to the problem of gearing the policies and the operations of his constituent housing agencies to the attainment of equal opportunity in housing.

Therefore, the Commission recommends that, in support of State and city laws the Federal Housing Administration and the Veterans' Administration should strengthen their present agreements with States and cities having laws against discrimination in housing by requiring that builders subject to these laws who desire the benefits of Federal mortgage insurance and loan guarantee programs agree in writing that they will abide by such laws. FHA and VA should establish their own factfinding machinery to determine whether such builders are violating State and city laws, and, if it is found that they are, immediate steps should be taken to withdraw Federal benefits from them, pending final action by the appropriate State agency or court.

Therefore, the Commission recommends that the Public Housing Administration take affirmative action to encourage the selection of sites on open land in good areas outside the present centers of racial concentration. PHA should put the local housing authorities on notice that their proposals will be evaluated in this light. PHA should further encourage the construction of smaller projects that fit better into residential neighborhoods rather than large developments of tall high rise apartments that set a special group apart in a community of its own.

Therefore, the Commission recommends that the Urban Renewal Administration take positive steps to assure that in the preparation of overall community workable programs for urban renewal, spokesmen for minority groups are in fact included among the required citizens participation.

Mr. TALMADGE. Mr. President, I reiterate my previously stated conviction that the kindest thing Congress could do with this Commission would be to allow it to be interred in history at the time contemplated by the act which created it. To allow it to expire as scheduled not only would relieve both the Federal Treasury and the Federal Judiciary of not-inconsiderable burdens, but also would rid our country of a divisive influence at a time when our greatest national need is for unity among all Americans of all races, all faiths, and all places of residence.

Mr. President, another Georgian in another day also was confronted with a so-called civil rights bill while serving in Congress. He was Alexander H. Stephens—the Vice President of the Confederacy and one of the most brilliant men of our history.

Although he was known affectionately to his fellow Georgians as Little Alex, he was an intellectual giant. The account of his opposition to the measure which radicals attempted to force through Congress following the War Between the States is one of great interest in the light of its parallel to present-day events.

The book, "Life of Alexander H. Stephens," gives this direct quotation from Mr. Stephens' address before the House of Representatives:

Interference by the Federal Government, even if the power were clear and indisputable, would be against the very genius concept of our whole system. If there is one truth which stands out prominent above all others in the history of these States, it is that the germinal and seminal principle of American constitutional liberty is the absolute, unrestricted right of State self-government in all purely internal municipal affairs. The first Union of the Colonies, from which sprung the Union of the States, was by joint action to secure this right of local self-government for each. It was when the chartered rights of Massachusetts were violated by a British Parliament, the cry first went up from Virginia, "The cause of Boston is the cause of us all." This led to the declaration and establishment of the independence not of the whole people of the united Colonies as one mass, but of the independence of each of the Original Thirteen Colonies, then declared by themselves to be, and afterward acknowledged by all foreign powers to be, 13 separate and distinct States.

It is not my purpose at this time even to touch upon any of the issues involved in the late war, or the chief proximate cause which led to it, or upon whom devolves the responsibility of its direful consequences. But, taking it for granted that the chief proximate cause was the status of the African race in the Southern States, as set forth in the decision of the Supreme Court to which I have first referred, suffice it to say on this occasion that that cause is now forever removed. This thorn in the flesh, so long the cause of irritation between the States, is now out for all time to come. And since the passions and prejudices which attended the conflict are fast subsiding and passing away, the period has now come for the descendants to return to the original principles of their fathers, with the hopeful prospect of a higher and brighter career in the future than any heretofore achieved in the past. On such return depends, in my judgment, not only the liberties of the white and colored races of this continent, but the best hopes of mankind. And if any breach has been made in any of the walls of the Constitution, in the terrible shock it received in the late and most lamentable conflict of arms, let it be repaired by appeals to the forums of reason and justice, wherein, after all, rest the surest hopes of all true progress in human civilization. If, "in moments of error or alarm" we have "wandered" in any degree from the true principles on which all our institutions were founded, in the language of Mr. Jefferson, "let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty and safety."

* * * * *

In the workings of our complex system under our Federal Republic, each State is a distinct political organism, retaining in itself all the vital powers of individual State government and development; while to all the States, in joint Congress assembled, are delegated the exercise of such powers, and such only, as relate to extra-State and foreign affairs. The States are each perfect political organisms, with all the functions of perfect government in themselves, respectively, on all matters over which they have not assigned jurisdiction to the Federal head, or on which they have not restrained themselves by joint covenant in mutual prohibitions upon themselves. Under this system, adhered to, no danger need be apprehended from any extent to which the limits of our boundary may go, or to any extent to which the number of States may swell. For the maintenance of this model and most wonderful sysem of government, in its original purity and integrity, every well-wisher of his country should put forth his utmost effort. No better time for an effort on this line than now, right here in this House.

Let us not do, by passage of this bill, what our highest judicial tribunal has said we have no rightful power to do. If you who call yourselves Republicans shall, in obedience to what you consider a party behest, pass it in the vain expectation that the Republican principles of the old and true Jeffersonian school are dead, be assured you are indulging a fateful delusion. The old Jeffersonian, Democratic, Republican principles are not dead, and will never die so long as a true devotee of liberty lives. They may be buried for a period, as Magna Carta was trodden underfoot in England for more than half a century; but these principles will come up with renewed energy, as did those of Magna Carta, and that, too, at no distant day. Old Jeffersonian, Democratic, Republican principles dead, indeed. When the tides of ocean cease to ebb and flow, when the winds of

Heaven are hushed into perpetual silence, when the clouds no longer thunder, when earth's electric bolts are no longer felt or heard, when her internal fires go out, then, and not before, will these principles cease to live—then, and not before, will these principles cease to animate and move the liberty-loving masses of this country.

Mr. President, there is nothing which I might say which can add to the eloquence or eternal truth of those words of a great Georgian and a great American—a man who was above rancor and who could rise from the depth of defeat to plead on the floor of the lower House of this Congress for the preservation of the principles of constitutional Government and human freedom upon which our Nation was founded and survived even the divisive bitterness of fracticidal conflict.

Although almost a century has elapsed since "Little Alex" Stephens uttered those immortal words, they are even truer and more urgent today than then. He spoke the language of Georgians in 1874 and his words speak the language of Georgians today.

I can think of no better way in which to summarize the point I have been endeavoring to make to this Senate than by reiterating and endorsing his plea that—

The period has now come for the descendants to return to the original principles of their fathers, with the hopeful prospect of a higher and brighter career in the future than any heretofore achieved in the past. On such return depends, in my judgment, not only the liberties of the white and colored races on this continent, but the best hopes of mankind. And if any breach has been made in any of the walls of the Constitution let it be repaired by apepals to the forums of reason and justice, wherein, after all, rest the surest hopes of all true progress in human civilization. If, "in moments of error or alarm," we have "wandered" in any degree from the true principles on which all our institutions were founded, in the language of Mr. Jefferson, "let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety."

Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, I wish to commend very heartily the splendid address made by the Senator from Georgia, a man who gives great thought and consideration to the subject and who speaks with great earnestness and practicality in regard to this very important subject.

Mr. President, with reference to the motion to sustain the rules on the question of the extension of the so-called Civil Rights Commission, I think for several reasons it is very unfortunate that this matter is presented to the Senate in this way and at this time.

Mr. President, the report of the Commission has been published only since last Monday, 1 short week ago. During that time Senators have been in sessions of the Senate day and night, 6 days a week.

This is a very voluminous report, of more than 653 pages. The condensation thereof itself is almost 200 pages long.

There has not been a chance, in this very brief time, for anyone to really have any opportunity to make any reasonable study of the major points involved. This is particularly true when one considers that the Commissioners themselves are divided three ways on every single major recommendation which is made.

Mr. President, it is certainly not in keeping with the sound legislative practices to bring before the Senate in the last days of the session, when there is an appropriation bill pending, a motion to suspend the rules in an effort to tack onto an appropriation bill the creation of or the extension of a legislative commission. That is contrary to all known sound rules of legislative integrity. So far as I know, it is simply not done unless it be a matter of very, very minor importance, almost insignificant, or something which is an extraordinary emergency.

The third point is the relatively large amount of money which has been expended by the Commission in such a short time. Certainly this has not been pursued or analyzed nor studied with the customary efficiency and completeness usual in regard to matters which come before this body.

I was amazed, Mr. President, to find that the Commission now has 67 employees, and large monthly expenses. For instance, in July the expenditures were some $70,000. In addition to the regular staff of 67 employees, there are listed on page 789 of the Senate hearings some 20 consultants who are paid at the rate of $50 a day.

I make no reference except one of commendation for these consultants. I do not know who they are. I assume they are people of character, integrity and ability. The very idea of having 20-odd consultants, who are paid at the rate of $50 a day, with reference to the relatively slight and not involved investigation made by this group, certainly is a flag, on its face. It should cause the Senate, the legislative body, to move with caution and restraint and certainly to make a complete analysis.

Mr. President, with reference to the report itself, one of the most accurate descriptions made was made by Commissioner John S. Battle, a distinguished citizen and former Governor of the sovereign State of Virginia.

In the report itself Governor Battle had this to say:

In my judgment it is not an impartial factual statement, such as I believe to have been the intent of the Congress, but rather, in large part, an argument in advocacy of preconceived ideas in the field of racial relations.

I do not believe that in all my public life I have read words like that from a fine, intelligent public servant such as Governor Battle, a member of the Commission which had been considering the subject matter and was filing a report. I am sure I have never heard such an accusation and charge, when he said that in his judgment, the statements in the report were not impartial factual statements, but an argumnt in advocacy of preconceived ideas.

When we run through the pages of the report, we find that that is certainly a sound and accurate analysis of the trend with reference to the entire subject matter. That is emphasized by the fact, too, that the Commissioners were unable to agree upon the major points reflected in the report, even though there is some clever writing which tends to show almost a unanimity on certain points.

The length of the report and the many immaterial and misleading arguments on race relations advanced therein make it apparent that no Member of the Congress has had any real opportunity to study the full report and obtain anything worthwhile from it.

I have had an opportunity to carefully review the references to my home State of Mississippi made in the report and have found them to be highly inaccurate and misleading and a prejudiced attempt to wrongly indict the people of my State. Only one side of the story has been told and that side is completely unverified. I shall not undertake to mention the many instances in which the report is completely inaccurate, both in direct fact and implications. I will mention, however, the statements made on page 59 where it is stated that Negro residents applying for registration to vote were given application blanks by the registrar and were directed to write a section of the constitution of Mississippi, giving a reasonable interpretation of the section which they had written.

The implication, of course, is made that this standard is applied only to Negro residents. In truth and in fact, any applicant for registration to vote, whether he be a member of the white race or the Negro race, is required to prepare an application, in his own handwriting. This is uniformly applied in Mississippi. The application is required by section 244 of the Mississippi constitution and is a very simple one. Generally, the applicant gives only the date of the application, his full name, age, and date of birth, occupation, place of business, name of employer, information concerning length and place of residence, and convictions of crime. Then the applicant is requested to write and copy a section of the Mississippi constitution, designated by the registrar and is instructed to write a reasonable interpretation of that section.

There is nothing unusual in any of these requirements and the Supreme Court of the United States has upheld that similar requirements in other States are reasonable and proper.

Written applications for registration are also required in Maine, Virginia, Louisiana, Alabama, and South Carolina. The ability to read and write must be demonstrated in New York, Oregon, Georgia, and North Carolina. In Alaska, Arizona, California, Connecticut, Delaware, Massachusetts, New Hampshire, Washington, and Wyoming, an applicant must be able to read any section of his State constitution.

Mississippi is not unusual in this respect since it is apparent that any applicant must satisfy similar requirements in other States.

Mr. President, this information is not new. It was available to the Congress

several years ago. In fact, several witnesses testified to this effect before the House and Senate subcommittees considering civil rights legislation in 1957.

What useful purpose, then, has the Commission served in this regard? The answer is obvious. None.

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

Mr. STENNIS. I am glad to yield to the Senator from Georgia.

Mr. TALMADGE. I congratulate my friend on the able speech he is making. I ask the distinguished Senator from Mississippi if he has read the so-called constitutional amendment which the Commission recommended be adopted for the registration of voters in all the States of the Union?

Mr. STENNIS. Yes. I carefully read the proposed constitutional amendment.

Mr. TALMADGE. The distinguished Senator is a former judge, and a good one. I hope one of these days his outstanding talents will be recognized and that he will grace the U.S. Supreme Court bench.

Is it not true that under the constitutional amendment which has been recommended, if the Congress were to submit it and the States were to ratify it, lunatics, imbeciles, and insane people would be permitted to vote?

Mr. STENNIS. The Senator is correct. That is an illustration of the looseness with which it is drawn, and, with all respect, the lack of knowledge on the part of those who proposed it.

Mr. TALMADGE. Is it not also true that if someone were in the penitentiary for murder or treason, awaiting execution at a particular date and hour, and if he were able to break out of the penitentiary on election day and find his way to the polls, he would be entitled to vote under the proposed constitutional amendment?

Mr. STENNIS. That would be the solemn law of the land, enacted by two-thirds of the Members of the Congress and ratified by three-fourths of the States.

Mr. TALMADGE. I thank the Senator.

Mr. STENNIS. I thank the Senator for his contribution.

Continuing with reference to the written application——

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

Mr. STENNIS. I yield.

Mr. LANGER. A moment ago the Senator mentioned a number of consultants who receive $50 a day. I did not catch the number.

Mr. STENNIS. It is either 19 or 20. They are listed on page 786 of the hearings before the Senate Appropriations Committee.

Mr. LANGER. Does that include expenses as well?

Mr. RUSSELL. Mr. President, if the Senator from Mississippi will yield, I am glad the Senator from North Dakota asked that question. I was about to ask the Senator from Mississippi to point out the $50 a day was only a part of the expense.

One of the consultants consulted for 140 days, at $50 a day. He received $7,100, and $1,141.44 for transportation, to come in and out to do his consulting. He received $358.48 for other expenses. His per diem remuneration, on top of the $50 a day, was $1,542. So he received about half as much again, in addition to the $50 a day, as expenses.

Mr. LANGER. What other employees are there besides the 20 consultants?

Mr. STENNIS. Sixty-seven. As of July the number of employees was 67, and the monthly expenses were about $70,000.

Mr. LANGER. As I recall, when this matter came before the Subcommittee of the Judiciary Committee the report was not even ready.

Mr. STENNIS. I believe the Senator is correct. All the facts and figures are set out beginning at page 786 of the Senate Appropriations Committee hearings, and extending to page 791.

Mr. LANGER. The Senator from Missouri [Mr. HENNINGS] was chairman of the subcommittee which reported the bill to extend the life of the Commission.

Mr. STENNIS. Yes.

Mr. LANGER. At that time we could not get the report.

Mr. STENNIS. That is true. I thank the Senator for his questions and for his interest.

Mr. LANGER. Is there a limit on the number of consultants that can be employed?

Mr. STENNIS. It seems that the Commission has authority to employ the consultants it has employed. That is what was claimed in the hearings. I have not had time to check back to see whether that is correct or not.

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

Mr. STENNIS. I yield.

Mr. RUSSELL. So far as I know, there is no limit, except in the appropriation.

Mr. LANGER. I understand that, in addition, in every State in the Union there is a civil rights commission. In my State there are six or eight members.

Mr. STENNIS. That is true.

Mr. LANGER. Are they paid their expenses? What is the provision with respect to them?

Mr. RUSSELL. I cannot answer the question.

Mr. STENNIS. I am sorry that I cannot answer the Senator's question. They are termed advisory commissions, but I am not certain whether there is compensation.

Mr. RUSSELL. I do not believe they receive compensation, but I assume that their expenses are paid when they meet.

Mr. STENNIS. Probably so.

If carried out, the proposals in the report of the Commission would effectively destroy the relationship between the States and the Federal Government in the field of suffrage, even providing for registration of voters by Federal officials in some instances. The Federal Government would assume virtually complete control in the field of education. And further, there would be complete Federal control over all housing for which any Federal funds have been used in any way in years past, as well as in the future.

The only step remaining to assure complete federalization of the Nation would be enactment of a FEPC bill to bring all employment under Federal control.

In education, the role of the Federal Government has been one of leadership and assistance, with some financial aid in limited fields. As outstanding examples, we can point with pride to our land-grant colleges, our extension service and vocational education, as well as grants for research.

Yet the Commission recommends that we reverse completely this role of leadership and assistance to one of bribery, coercion and punishment, resulting in the absolute destruction of these worthy programs. Coercion in the field of education has never been—and I trust it never shall be—the policy of the Congress.

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

Mr. STENNIS. I am glad to yield to the Senator from Georgia.

Mr. RUSSELL. As an eminent lawyer, I know that the distinguished Senator from Mississippi has been greatly impressed by the paradox which is presented by the report. What the authors of the report say is that under the 14th amendment everyone is entitled to equality. The 14th amendment does not mention color, race or creed; it mentions only citizens of the United States. It is said that States might discriminate against a citizen—and of course the question "What is discrimination?" is really the crux of the whole matter—by not permitting Negro children to go to school with the whites, and that if that happens in a State, there should be denied to all children, both white and black, any assistance from the Federal Government, and all schools should be closed down. It is a form of educational genocide they would wage against particular States. In my opinion, the equality they would provide is the greatest inequality that has ever been seen in the several States of the Union. It is the most vicious and vindictive proposal that has ever been made.

So far as I know, neither Thad Stevens nor Sumner, or any of the others who waved the red shirt in the days of reconstruction, ever advocated taking away from dependent children allowances they might get in one State because the State government would not adopt the policies of Myrdal; neither did they advocate the taking away from old people their old age assistance payments which they receive from the Federal Government because the State would not accede to the demands of the social reforms these people say should be instituted. That is what some of the consultants have been advocating for a long time.

In my opinion, if the life of the Commission is extended, we will find that these people will then advocate, as these consultants have advocated in other reports, that the Southern States be placed outside the pale of the law. As a matter of fact, some of these people, if they had their way, would declare an

open season on every person in the South who does not accept their ideas in any manner that they might desire. That is what they would advocate unless the people accepted the notions of these advocates as to the social order that should be adopted.

Mr. STENNIS. I thank the Senator from Georgia. He has pointed out clearly and vividly more than one of the major faults in the recommendation, and has applied his practical commonsense to show how far it would go.

Another point the Senator has made is that the report in a great measure reflects the preconceived ideas of some of these consultants—ideas which have been rejected by the American people over a period of years. I now yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I call the Senator's attention to a report which some people say is a factual report. Certain statements in it show that the members of the Commission, or at least the staff members, have not read the report.

On page 302 of the unabridged edition of the report it mentions the fact that the North Carolina Legislature adopted a statute allowing the school boards the discretion to assign pupils to schools, and it says in the fourth paragraph on that page:

> So far as the Commission has been able to ascertain, the school boards of North Carolina unanimously exercised this discretion by assigning all white students to white schools and all Negro students to Negro schools.

On pages 224, 225, 226, and 227 of the report, it is pointed out that in certain cities of North Carolina, including Charlotte, Winston-Salem, and Greensboro, the school boards had assigned some Negro children to previously white schools. So the report contains absolutely contradictory statements concerning the same matters insofar as North Carolina is concerned. As to what extent there may be contradictory statements of facts in other parts of the report I have not been able to determine.

Mr. STENNIS. I thank the Senator, and it is a striking illustration of the many instances where, when put under the microscope of analysis, this report will not stand up and is erroneous and misleading. I have not had a chance to look into that part pertaining to the Senator's State.

Mr. ERVIN. So the report says at one place there is absolutely no integration in North Carolina schools, and in another place that there has been some integration in North Carolina. This being true, the report permits anyone who has certain ideas on this subject to find in it what he wants to find.

It reminds one of the schoolteacher who applied for a job teaching geography back in the days when people argued whether the earth was round or flat. The school board asked the applicant what he taught on that subject whether he taught that the earth was flat or round. He replied: "I will leave that to the school board. I teach either system." [Laughter.]

So we can find in the report two diametrically opposite statements concerning my State of North Carolina.

Mr. STENNIS. I thank the Senator.

Mr. President, the most shocking recommendation of all of those made by the Commission is the proposal to authorize Federal officers to act as temporary registrars in a State and to permit them to administer the oath of registration to applicants. This proposal is so ridiculous that certainly it will not be seriously considered now or at any other time by Congress. The qualifications of persons to vote are matters clearly reserved to each State under the Constitution. If this proposal is carried out, it would effectively destroy the relationship between the States and the Federal Government relating to suffrage. It would displace local officials elected by the voters of their respective counties and in effect replace these locally elected officers with persons appointed by Federal officials with no responsibility at all so far as the local level is concerned.

Mr. President, I wish to pass on and mention a subject matter of great concern to me, and that is our schools.

We read reports that schools are deteriorating in other areas of the Nation. I can continue to point with pride to the real progress that we are making in Mississippi, both in the enrichment of our school program and in the construction of necessary classrooms. Although Mississippi is a relatively poor State financially, we believe in the real merit of investment in educational opportunity. Since 1957 alone we have completed or now have under contract a total of 276 school buildings. Of this number 177 are for the use by members of the Negro race.

Of course these are the most modern and advanced facilities and include not only adequate classrooms but also necessary auditoriums, gymnasiums, cafeterias, science, libraries, clinics, homemaking rooms, shops, and other facilities.

Mr. President, I wish to point out two striking illustrations here that were reported in the daily press by the United Press International, and I am reading a news item from Jackson, Miss., dated September 7, 1959. It concerns a colored man in my State who once applied to enter the University of Mississippi. His qualifications were found to be adequate to meet the test of entrance there, but he later moved to California. Not long ago he wrote a letter from Los Angeles and gave it to the press.

Mr. President, I ask unanimous consent that an article entitled "Clennon King Tells Regrets—Negro Who Tried Entry at Ole Miss Is Bitter at California," published in the Memphis Commercial Appeal of September 8, 1959.

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

CLENNON KING TELLS REGRETS—NEGRO WHO TRIED ENTRY AT OLE MISS IS BITTER AT CALIFORNIA

JACKSON, MISS., September 7.—Negro Clennon King said in a letter received here Monday that racial conditions he found in California made him regret that "I deliberately antagonized Mississippians" by trying to integrate the University of Mississippi.

King moved to Los Angeles from Gulfport, Miss., last year after failing in a try to enroll at the all-white university.

The former professor and minister sent a letter from Los Angeles to Editor Hodding Carter of Greenville, Miss., and mailed a copy of it to United Press International here. In it, King said his family moved to California because many Negroes considered it a new and better place to live.

FAR MORE OMINOUS

"But what I have found makes me sorry, in a way, that I deliberately antagonized Mississippians as I did, for Negro Mississippians' racial concerns are more basic than school integration," King said.

"The California type containment of the Negro is far more ominous than that of Mississippi because it is so much more efficient and professional and consequently that much more to be hated," said King.

"My brief experience in Mississippi soundly taught me one thing, that despite all the hullabaloo there is far more genuine bilateral concurrence there (in Mississippi) than the current racial propaganda admits."

King said Los Angeles has the highest per capita rate of major crime in the Nation and he said most of it is committed by Negroes. But he said "unfavorable racial matters and disliked racial thinking are made hush-hush" in California while "soiled reports from the South get predominant top billing."

HYPOCRISY SCORED

"My resented observation is the hypocrisy," said King. "How, for instance, the excessive crime figures of 'liberal and progressive' California compare with those of 'reactionary and backward' Mississippi.

"Even among my own people the Mississippi figures don't come anywhere near those here (in California). Yet there is no national nor international alarmed concern. One's calling attention to such things, when the North is again forcibly converting the South to its way of handling Negro affairs, is considered out of place by gullible Negroes and white liberals."

Mr. STENNIS. Mr. President, the substance of the letter is that, even though Mr. King found the laws of California to read more favorably to him than he thought the situation was in Mississippi, in reality they did not operate in that way. I say that with no discredit to California, but simply to offset many of the news items which appear in the American press, which are always holding up the thought, and are stating it as a fact, of the arbitrary discrimination against and mistreatment of those who are of the colored race.

Mr. President, I have another item in the field of education. This item was published as a United Press dispatch from Des Moines, Iowa. It is dated 2 years ago. The article is entitled "Negro Professor Says Pressure Is Worse in North." It reads:

DES MOINES, IOWA.—A Negro educator predicted Negroes will be happier "anywhere in the South" than in cities of the North within 15 years.

Dr. Alvin D. Loving, 49, Flint, Mich., said "the southern white know the Negro's potential. In the North this is not always so."

Loving is an associate professor at Flint College of the University of Michigan. He spoke here at a number of observances of Brotherhood Week.

Loving said racial pressures of the North are centered in the suburbs, where minority groups are excluded under gentlemen's agreements.

"I would advise you not to be concerned so much about what is happening in the South as what is not happening in the North," Loving said.

He also said the racial situation in the South "would get worse before it gets better."

Mr. President, I call attention to statements like that, and emphasize them, not to discredit any State or any city or even the efforts of the fine people in the communities, but to offset the constant stream of stories and misinformation which are highly misleading with reference to conditions in our Southland, against which the Commission's report is primarily directed.

By contrast, I call attention to an educational institution in my State. A report was made to a meeting of Methodists in Dallas, Tex., last week, by the Honorable O. B. Tripplett, an attorney of Forest, Miss. I know Mr. Tripplett. He is a lawyer, a fine, upright gentleman, a graduate of Yale University Law School, and one of the foremost citizens in the entire country in laymen's work in the Methodist Church. He tells the true story of his home town.

Mr. President, I ask unanimous consent that the entire article, which includes Mr. Triplett's statement, be printed at this point in the RECORD.

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

[From the Jackson (Miss.) State Times, Sept. 9, 1959]

THE HAWKINS SCHOOL STORY SHOULD BE TOLD

(By Oliver Emmerich)

People of America who are searching for an example of racial harmony can turn to Forest, Miss. There to be observed is the case of E. T. Hawkins High School.

The E. T. Hawkins High School, built for Negro children, is the best school, white or black, in Scott County. This is what people in Scott County say about it.

O. B. Triplett, attorney of Forest, told the story of his Mississippi school to a meeting of Methodists in Dallas last week. Below we quote directly from Mr. Triplett's remarks.

"We have had as our Negro school superintendent for 26 years, Prof. E. T. Hawkins, who holds a master of arts degree from the University of Minnesota.

"His school plant was built before 1954 and his people named it in his honor—E. T. Hawkins High School. The vacational department of his school, in contests sponsored by the New Farmers of America, represented the State in the national contests 10 out of the 15 years vocational training has been taught in the school, and won first place in numerous events.

"Three times their school competed in public speaking on the national level, receiving one third-place award. They have also won first honors in choral music in State contests.

"For 15 years their football team, three times State Champion, never finished lower than third place in competition with other schools in the State. Their basketball teams won 10 State championships.

"The record of this school has been so outstanding that on an occasion when their high school chorus presented a chapel program at our white school, the white students without prompting, rose to applaud in appreciation of a fine performance.

"It is little wonder that in celebration of this 25th year as superintendent of our Negro school, an entire issue of our weekly newspaper was devoted to Professor E. T. Hawkins and his school, an honor never received by any white person. Among thoughtful people in both races, he is regarded as Forest's most indispensable citizen.

"Could anyone for a moment think that the students at E. T. Hawkins High School are put to a psychological disadvantage by having their own separate school? I asked Professor Hawkins, who is a leading Negro educator in our State, what percentage of the Negroes in his school district was opposed to integration. His reply was, 'At least 99 percent'—and, he added, 'This is true all over the State.'

"Our population is almost equally divided between the two races and we have found that the policy of separate but equal opportunities fits the conditions under which we live and commends itself to the reason and conscience of good men of both races.

"Men of good will, of course, recognize and deplore the injustices of discrimination; and we freely acknowledge that forced segregation has often worked hardships due to our failure many times in the past to furnish equal educational opportunities.

"But forced integration will work a hardship on many more people of both races."

The E. T. Hawkins school was built in 1953. It burned to the ground in 1957. The following day an architect was given orders to immediately make plans for a new school. A spokesman for the Mississippi State Department of Education says that the Hawkins school was rebuilt faster than any other Mississippi school on record.

A significant fact about Mr. Tripplett's interest in this field is that he is scheduled to be in New York City on September 22 to appear before the executive committee of the general board of education of the Methodist Church. His purpose is to plead with the committee to adopt the policy of presenting in an atmosphere of freedom and Christian thinking both sides of the segregation controversy in Methodist literature. Several prominent Methodists of the higher echelon have agreed to join him in this plea. Dr. Henry Bullock, editor in chief of Methodist publications, has advised Mr. Triplett that he will be in New York and that he will make this recommendation.

The Methodist Church is a farflung, worldwide Christian organization. It is right and proper that it should be willing to present both sides of this controversial subject. It is significant that a number of Methodist leaders have joined in this effort.

The public in general and Methodists in particular, will be interested in the outcome of the September 22 meeting of the executive committee of the general board of education of Methodists. This problem is too far reaching and too significant to limit the publication of only one side of this globe-shaking controversy.

Mr. STENNIS. Mr. President, there is the testimony of two outstanding citizens of this little city, who have lived side by side for 25 years. They have worked in harness, morning, noon, and night, for the betterment and benefit of all the people of that community, and have rereceived national recognition for the school to which Mr. Triplett refers as the Hawkins High School. That is not an institution which is supported by outside aid. It is not supported by the church. It is not supported by a philanthropic association of any kind. It is simply one of the many public schools in my State which can boast of such records as that.

I shall refer to a few more items pertaining to my State which bring out facts altogether different from those which are represented by the report of the Civil Rights Commission. In my opinion, speaking as one in public life, the certain way to stir up and destroy the relations which Mr. Triplett mentions; the certain way to stop this progress and cooperation, is to try to force those schools to coalesce or go together. That is just as true as that night follows day. It is true now and will be true in the decades to come.

I point out with pride, and I hope with modesty, that I believe my State, numbers considered, is not exceeded by any State in the Union in what it is doing for its Negro citizens. Mississippi has the highest percentage of colored people of any State in the Nation. At the same time, Mississippi has the lowest crime rate in the Nation. I am referring to the uniform crime rate report for the United States for the calendar year 1958, a report issued annually by the Federal Bureau of Investigation, U.S. Department of Justice. I quote from the figures of the FBI the total offenses on the basis of 100,000 inhabitants.

In Mississippi, the total offenses were 335. That is the second lowest number in the United States. The lowest is for North Dakota, where, for each 100,000 inhabitants, there were 327 total offenses. The report, on page 56, reflects the figures I am giving.

For the Nation, the average number of crimes per 100,000 inhabitants is 897. That means that the average for the Nation is more than 225 percent higher than the average in my State.

I am not boasting about my State having some crime. I am sorry it has any. But on the average, the amount is a little less than 40 percent of the national average. Still, Mississippi is the State having the highest percentage of colored people of any Sate in the Union.

The certain way to destroy all the harmony, peaceful relations, cooperation, and continued existence on the part of the outstanding members of both races, who are willing to try to help the body politic in the community—the certain way to undermine and totally destroy those relations in that effort is to enforce the provisions of the report of the Civil Rights Commission.

Mr. President, I regret very much that it is necessary to call the attention of the Senate to the many vicious slayings and incidents of violence in these large cities. I know that the authorities there are anxious to cope with the situation and find a solution. At the same time, the civil rights of these cities are being violated and ignored every day. If any one of these incidents had occurred in my State, no doubt there would have been an immediate call from some of the race agitators living in these very cities for the paratroopers to be dispatched immediately.

The dispatch of Federal troops, of course, is not the answer to these problems. The Civil Rights Commission has not provided an answer, after 2 years of study and 668 pages of a printed report.

If given another 2 years and another 668 pages, the Commission will not make any useful recommendations, if past experience is any guide. The answer lies

in the individual States, with the local people working together in their own way to find a solution.

Mr. President, I want to make it absolutely clear that I am wholly opposed to the extension of the Civil Rights Commission. It is no secret that for many months now members of the Commission have been entirely dissatisfied with the work which was being accomplished by this group and were anxious to resign. They apparently know that no useful purpose is being served by the Commission. It is unreasonable to continue to stir up people of the various States by having the Commission go into these States and hold hearings which will never solve anything. These problems can only be solved by the people directly affected.

I can assure my colleagues that the people of both races in Mississippi are anxious to live together in peace and harmony and want to do so, without outside agitation. Mr. President, some make it appear that the two races are squared off, eternally in opposition to each other.

During the past few years, we have made outstanding progress in the training of our teachers and the construction of school facilities for the children of all races. Everyone is satisfied. As an example, I would like to call the attention of the Senate to an editorial which appeared in the Jackson Daily News on April 26, 1958, which refers to an editorial by Percy Greene, editor of the leading Negro newspaper in Mississippi, the Jackson Advocate. I ask unanimous consent that this editorial be printed in full at this point.

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

NEGRO EDITOR BLASTS NAACP

Percy Greene, editor of the Jackson Advocate, said in an editorial this week that the National Association for the Advancement of Colored People is badly in need of replacement as the leader in promoting the progress of Negro citizens in this country.

Greene, a Negro editor who recognizes the communistic influences which have dominated the NAACP, cites the national Negro crime wave as a challenge to racial leaders to quit demanding and start doing something to uplift the morals of the race.

"The Negro masses are in a psychological turmoil resulting from repeated emphasis on Negro civil rights, with Negroes themselves coming to have less and less respect for the civil rights of others while pressing for their own civil rights" is a sound piece of wording by Greene.

Citing the recent turnabout article by Time magazine on how the Negro crime rate has proven a failure in integration, Greene says that conspiracy of concealment (hiding the facts on crime and other factors) "is one of the evidences of the practice of Negro leaders telling the masses of Negroes what they want to hear rather than tell them the truth." Greene says despite the challenge to perform good for the race, Negro leaders are taking a "more profitable course."

Percy Greene writes as if he knows whereof he speaks.

Mr. STENNIS. Still, Mr. President, we are asked to act on this measure in the dying days of a long session, not to act on the merits of the measure, but to act on it as a rider and an amendment to an appropriation bill.

Mr. President, I can think of nothing in my public life that would do more harm to the great areas of the Nation and not to do good to any, than to try to carry out the recommendations of this Commission. It ought not have the encouragement of having the breath of life blown back into it, after such a record and after such a report, which is contrary to the facts of life and experiences of mankind.

Mr. President, I do not wish to detain the Senate; other Members wish to speak. But I speak with great deference, now, to everyone, both in the Senate and elsewhere. However, all the efforts to reform and do good and bring about idealistic conditions elsewhere in the Nation, by some of our friends from other areas of the Nation, brought very vividly to my mind a speech which I read many years ago. It was delivered by an Indian chief. The short speech he made is contained in a collection of the world's most famous orations, and is to be found in volume 8 of that work, a few pages of which are devoted to orations by North American Indians.

It seems that a missionary by the name of Cram in 1805 made an appeal, in a sermon, to the Council of Chiefs of the Six Nations. The chief who spoke for them later was Red Jacket. He is said to have been born about 1752, and died in 1830. His nation were the Senecas; and his home was near Geneva, N.Y. The name "Red Jacket" came from an embroidered scarlet jacket which had been presented to him by a British officer during the War of the Revolution. Red Jacket saw service on the American side in the War of 1812.

After this sermon, which must have been a powerful one, an appeal to the Indians to desert their concept of the Great Spirit, and worship our God—and that appeal was presented by that very fine missionary—the Indians held council and decided what they should do, and reached their conclusion, and authorized Red Jacket to speak for them.

I shall not read all of his reply, which is 3 pages in length; I shall read only the last, summarizing, as follows:

Brother, we are told that you have been preaching to the white people in this place. These people are our neighbors. We are acquainted with them. We will wait a little while and see what effect your preaching has upon them. If we find that it does them good, makes them honest, and makes them less disposed to cheat Indians, then we will consider again what you have said.

These words came from an Indian who we say was uncivilized, unlettered, untutored, unlearned. He never sat in the Council Halls of this Nation, as we do. But he spoke a great truth, not on racial matters, but on the great, important matters of life, even up into the spiritual realm.

So, Mr. President, with the greatest deference to our friends, let us observe them a while longer—in the East, in the North, in the West, in the South—anywhere. Let us see what the doctrine they preach does in their own areas. Let us have a chance to work along the lines we think are practical and valid—at least for a time; and we will observe their conditions again, and then we will take counsel with them again, to see whether we shall desert our plan and adopt theirs.

Mr. President, I appeal to the second reasoning, the second thought, of the membership of this body. Let us not carry on a thing that in race relations is usually a farce. Instead, let us get back to the fundamentals of life, as mentioned by Red Jacket, and move forward. Let us all move forward together on these racial matters, as they affect education, as they affect suffrage, as they affect other rights. That is the only way progress can be made.

Mr. President, I had told the Senator from Pennsylvania I would be glad to yield to him. However, I believe he has left the Chamber.

Mr. President, I yield the floor.

EXECUTIVE PRIVILEGE

Mr. MONRONEY. Mr. President, on Saturday, during the consideration of the amendment offered by the Senator from Virginia [Mr. ROBERTSON], the senior Senator from Oregon [Mr. MORSE] discussed with his usual thoroughness the constitutional basis of and limitations on executive privilege.

In reviewing his comments, and the background material which he inserted in the RECORD, I felt that it would be helpful to Senators to have additional background material on the specific question involved in the Robertson amendment, that is, the assertion of executive privilege to contravene a specific statutory direction that the information be furnished.

I believe that the most complete analysis of this problem which has been undertaken in the Congress is that made by the Moss Subcommittee on Government Information—at the direction of Chairman WILLIAM L. DAWSON, of the House Committee on Government Operations—in connection with its investigation of the refusal of the Air Force to furnish information to the Comptroller General.

I therefore ask unanimous consent to have printed at this point in the RECORD a number of memoranda from the hearings and report of the Moss subcommittee.

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

EXHIBIT IV–A

U.S. GENERAL ACCOUNTING OFFICE,
OFFICE OF GENERAL COUNCIL,
Washington, D.C., November 4, 1958.

MEMORANDUM ON RIGHT OF THE COMPTROLLER GENERAL TO ACCESS TO A REPORT OF THE INSPECTOR GENERAL OF THE AIR FORCE ENTITLED "SURVEY OF MANAGEMENT OF THE BALLISTIC MISSILES PROGRAM"

The basic statutory authority of the Comptroller General for access to records of departments and agencies is set forth in section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54). Section 313 provides:

"All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require