STATEMENT BY SENATOR STROM THURMOND (D-SC) IN THE SENATE REGARDING
ATTACKS MADE AGAINST BILL TO GUARANTEE TRIAL BY JURY, APRIL 8, 1957.

MR. PRESIDENT:

During the last week-end, there were at least two separate, but perhaps co-ordinated, attacks launched against S. 1735, a bill introduced by the distinguished senior Senators from Mississippi and Virginia and myself. S. 1735 is a bill designed to further secure the guarantee of the right of trial by jury.

One of the attacks was made by a representative of the Justice Department in a speech delivered here in Washington. The other attack was made in an editorial of a newspaper well-known for its support of individual liberties and freedom.

Only recently this newspaper has been among those who protested vigorously to the State Department against what it considered a violation of the First Amendment which guarantees freedom of the press, among other rights of the people. This newspaper recognized no restriction on freedom of the press as guaranteed in the First Amendment. It spoke out loudly in its editorials against the action of the State Department in denying a passport renewal to a reporter who travelled into Red China against the instructions of the State Department.

Mr. President, I have no brief today either for the newspaper or for the State Department in the instance cited. My purpose in making reference to the position of the newspaper is to show that it has been a strong advocate of individual rights and liberties, but that its position with reference to S. 1735 is a departure from its usual position.
There are other instances which could be cited with reference to this newspaper in which it editorialized strongly for traditional rights and freedoms. I shall not take the time to go into such details because I do not believe it is necessary. The record of this newspaper is well known.

The Justice Department spokesman, who addressed the Ninth Annual Conference of the National Civil Liberties Clearing House, chose as his title, "The Government's Role in Defending Civil Rights."

At the outset of his speech, he declared:

"...The Administration civil rights program which is now pending before the Congress will, if enacted, give the Government for the first time the authority necessary for effective enforcement of federally guaranteed civil rights."

That makes his position clear. He is an advocate of stronger federal laws to strengthen what he believes to be the rights and freedoms of individuals.

Yet in the same paragraph of his speech, he launched his opposition to the bill which I am co-sponsoring to give wider application of the right of trial by jury. This is what he had to say on that subject with reference to S. 1735:

"I should like also to warn against attempts now being made to emasculate this program by deceptive appeals for the protection of the right to trial by jury."

I would like to know what is deceptive about guaranteeing a trial by jury. That is the stated purpose of the bill.
However, I am glad that the Justice Department spokesman and the newspaper editorial have made the issue clear. There is only one conclusion to be drawn from the editorial and from the speech: The newspaper and the speaker both are against extending to every citizen a legal right now enjoyed by some citizens. That is the right of trial by jury.

There can be no argument on the point that a court must have the authority to deal with direct contempt. This bill will preserve the necessary authority for contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice. It also retains for the court power to punish misbehavior, misconduct, or disobedience of any officer of the court.

What I cannot understand is how certain forces in this country can recognize weaknesses they claim to see in existing laws for the protection of civil rights, but profess not to see any danger in the loss of the right of trial by jury. The civil rights bills now pending in the committees of the Senate and the House of Representatives would take away that right in some instances.

Is greater federal protection of the right to vote more important than protection of the right of trial by jury?

I do not believe the people of this country would agree with the advocates of the so-called civil rights bills that a distinction can be made between the importance of these rights.

The citizens of the United States have always believed that every citizen had the same rights in courts of justice as every other
citizen. That is not true under the present law which provides for the substitution of the United States for the real party in interest in certain cases. In such instances, the defendant can be deprived of his right of trial by jury simply because the United States has made itself a party to the case. The Justice Department wants to employ that device more widely.

If that is not discrimination, then I must be taught a new definition for the word.

The Justice Department spokesman stated his opposition to having a jury decide whether a contempt had been committed of an existing court order or injunction. My question to him would be whether he believes a jury would be less fair in its consideration of such a contempt charge than the judge who had issued the order.

Would it be easier for a judge to separate himself from the feelings and emotions involved in such a case than it would for a jury which had not previously been involved?

District federal judges already have their decisions reviewed. They are reviewed by special courts, by circuit courts of appeals, and by the Supreme Court. More than one judge sits on such courts. This is recognition that more than one opinion is needed in many cases.

I fail to see why letting a jury of 12 persons consider whether a contempt has been committed, unless committed in the presence of the court, is any departure from accepted principles of justice.

Mr. President, the inconsistency of some advocates of the so-called civil rights bills is clearly drawn by their attacks against S. 1735.
Do they believe in certain rights for certain people/or do they believe in the same rights for all the people? I believe a majority of the American people/believe in equal rights for all.