ADDRESS BY SENATOR STROM THURMOND (-SC) IN THE SENATE IN OPPOSITION TO ENACTMENT OF THE SO-CALLED CIVIL RIGHTS BILL, JULY 24, 1957

Mr. President, this is a sad day in the history of the United States. Every American who believes in the Constitution upon which this Federal Government was established should be sorrowful.

The Founding Fathers believed they had fought the battles of freedom and won when they ordained the Constitution and, quickly thereafter, the Bill of Rights. They did not anticipate that 181 years after they declared their independence from Great Britain that the Congress, which they helped to create when freedom was won, would be considering the imposition of laws to usurp the freedom of the people. They did not visualize the possibility that within our own Federal Government, created by specific delegation of powers from the separate States, there would be attempts such as this to take from the people precious rights guaranteed by the Constitution.

Yes, Mr. President, this is indeed a day of sorrow when we have to urge in the United States Senate that our colleagues give consideration to the rightful division of powers established in the Constitution. The efforts which we have witnessed this year in the Congress to impose obnoxious and unnecessary laws upon the citizens of this nation have brought about division in domestic affairs when our efforts should be devoted to bringing about unity in the building of a strong national defense to protect the free world.

Every citizen of this Nation should be concerned with this combined effort by a part of the Executive Branch and many members of Congress to force through the Congress this so-called civil rights bill.

Today the objective in trying to pass this legislation is to force upon the South, by use of craftily designed laws, the acceptance of racial integration. Do not be deceived by the statements that the main purpose of this bill is to protect the voting rights of Negro citizens.

The real purpose is to arm the federal courts with a vicious weapon to enforce race mixing.

Today the purveyors of this legislation may believe it will fit their objective so well that it could not harm them and their adherents in future years. But the sharpness of a knife does not control the direction in which it cuts.
I am convinced that such a bill, if enacted into law, would eventually be applied in many ways which its authors and advocates would consider just as undesirable as I consider it now in its original intent.

What is being attempted here by the advocates of this bill, at the urging of the Justice Department, is a step in a long stairway of Supreme Court decisions, each of which has descended further away from the lofty principles of the Constitution. Therefore, what the people face is the question of whether they want Congress to assist the Supreme Court further down the stairway which leads away from the Constitution.

My view and the view of millions of citizens is that the Congress should reverse the direction that has been taken by the Court in recent years instead of following meekly at the heels of the Third Branch of the Government.

There are pending in the committees of the Senate a number of bills which should be taken up to protect the Nation from the many decisions of the Court which have so adversely affected the welfare of the people. Embodied in these bills are the vital parts of law which should be considered if we want to protect the best interests of the people.

I predicted a few moments ago that the enactment of this so-called civil rights bill would bring results not anticipated by its present advocates. The more recent decisions of the Supreme Court have already brought cries for relief from some of them who applauded the unfounded decision in the school segregation cases.

The Solicitors General of two administrations presented amicus curiae briefs to the Court urging that segregation in the public schools be declared illegal. The basis on which the Court rendered its decision in Brown v. Board of Education was based entirely on sociological and psychological opinions. The grounds upon which this case was based are less substantial than its decision in the Jencks case, which opened up the FBI files.

But now the Attorney General, who directs the actions of the Solicitor General, comes to the Senate crying for speedy enactment of a law to protect the FBI files.

That is a good illustration of what should be expected in the future as the result of passing any bill of the nature of the so-called civil rights measure sent to us by the House. The judicial
knife is cutting in a different direction now than when it was carving out the decision in the school cases. The legislative knife also changes directions, and the wounds of the unexpected cut can be worst of all.

The American people have been the victims of a highly successful propaganda campaign. When the National Association for the Advancement of Colored People, and like organizations, first failed to get what they wanted from the Congress, they went to the Courts. Their campaign there was successful.

As success began to reward the efforts of the NAACP in the Court, culminating in the school cases decision, officials of both national political parties rushed to take their places at the head of the civil rights parade.

The bill which the House has sent to the Senate is now the focal point of efforts by both parties to force political ammunition through Congress. I do not believe I would be mistaken in suggesting that some mention of the efforts being made to pass this bill will be made during the congressional elections next year. Doubtless there will be statements as to who tried hardest to secure passage.

Propaganda and pressure are the explanation of the fact that a bill like this one is being considered at all.

Propaganda turned the Court from the Constitution to sociology, and pressure has brought the Senate to the point it has reached with this bill.

There is an inseparable relationship between the recent decisions of the Court, beginning with the school cases, and the efforts to pass this bill through the Senate. In both instances, there is a departure from the fundamental principles of the Constitution. In both instances there are usurpations, or attempted usurpations of authority not constitutionally held by the Court or by the Congress. Let us go back for a few minutes and discuss some of the basic provisions of the Constitution.

The Constitution provides in Article I, Section 1, that: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."
Just as the Court seized the reserved authority of the States by hearing the school cases, so is the Congress not meddling into the affairs of the States. There was already legal grounds for operation of the schools as each State desired, not only in the South but North, East and West as well. There is also ample legal protection for voters and for the civil rights of all citizens already on the statute books of the States and the Federal Government.

Since the laws of the States, and existing federal laws, already adequately protect the civil rights of every person, the advocates of this bill should admit their objective. The truth is they want to go beyond the harsh decision of the Court in the school cases. That decision did not require integration of the races. What the advocates of this bill attempt to accomplish is to force integration.

For a more complete understanding of the situation, let us briefly examine the events subsequent to the Court's 1954 decision.

On May 31, 1955, the school cases were remanded to the district courts, leaving to them the setting of time for compliance. The case which arose in Clarendon County, South Carolina, was heard in Columbia before a three-judge federal court.

In his opening remarks at the hearing on July 15, 1955, Chief Judge John J. Parker said:

"...It is important that we point out exactly what the Supreme Court has decided and what it has not decided in this case. It has not decided that the federal courts are to take over or regulate the public schools of the States. It has not decided that the States must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided, and all that it has decided, is that a State may not deny to any person on account of race the right to attend any school that it maintains. This, under the decision of the Supreme Court, the State may not do directly or indirectly but, if the schools which it maintains are open to children of all races, no violation of the Constitution is
involved/even though the children of different races voluntarily attend different schools, as they attend different churches."

Judge Parker's words point clearly to a means of continued segregation on a voluntary basis. Were it not for the agitators who have no regard either for the Constitution or for the best interests of a majority of both races, I believe voluntary segregation would work satisfactorily.

Permit me to quote Judge Parker further:

"Nothing in the Constitution or the decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation. The Fourteenth Amendment is a limitation upon the exercise of power by the State or State agencies, not a limitation upon the freedom of individuals."

Two points in Judge Parker's application of the Supreme Court decision need to be emphasized. First, the decision of the Court "does not require integration," and, second, it is "not a limitation on the freedom of individuals."

Because this is true, the ardent proponents of forced racial integration are now attempting to bring about their objective through the enactment of this obnoxious bill. Having gained one unconstitutional objective through the Court, they now want to seize another through the Congress.

But in the South the people have been living under the rules set down by Judge Parker. They have stood firmly on their right of personal freedom to choose their associates and to maintain segregation of the races for the best interests of both white and Negro citizens.

Now, as in the past, there is a concentration of the Negro population in certain States. Where the concentration is greater in proportion to the total population of a State, the problem is greater. You will note from the following statistics that the States where the concentration is greatest are the States where the resistance to integration is greatest.
My people in South Carolina sought to avoid any disruption of the harmony which has existed for generations between the white and the Negro races. The effort by outside agitators to end segregation in the public schools has made it difficult to sustain the long-time harmony.

Except for the troublemakers, I believe our people of both races in South Carolina would have continued to progress harmoniously together. Educational progress in South Carolina has been marked by the construction of more than $200 million worth of fine school buildings in the past 5 years, providing true equality, not only for white and Negro pupils, but also for urban and rural communities.

In the South Carolina school district where the segregation case was instigated, the Negro schools are better than the schools for white children.

While South Carolinians of both races are interested in the education of their children, the agitators who traveled a thousand miles to foment trouble are interested in something else. They are interested in integration, not education.

They may as well recognize that they cannot accomplish racial mixing by a "force bill" enacted by the Congress any more than they could force integration through the "judicial legislation" of the Supreme Court.

What the Saturday Evening Post has reported from Summerton is indicative of the firm resolve of the people of the South
that they shall not bear the political cross of integration.

I hope the voices that are being raised on behalf of our people will not be voices crying in a wilderness of politics where only the strong shall prevail.

In other countries tyranny has taken the forms of fascism, communism, and autocracy. I do not want to see it foisted on the American people under the alias of "civil rights."

Real civil rights and so-called civil rights should not be confused. Everybody favors human rights. But it is a fraud on the American people to pretend that human rights can long endure without constitutional restraint on the power of government.

The rightful power of the Federal Government should not be confused with power longed-for by those who would destroy the sovereignty of the States.

There have been a number of instances of attempted and actual usurpation of power by the Federal Government, which this pending bill would attempt to legalize, expand, and extend.

I have already discussed the most notorious illustration of usurpation—the 1954 school segregation decision. Since that time there have been several decisions by the Court which I think have waked up people all over the country, who previously paid little attention, or cared little, what the result might be in the school segregation cases.

There is no necessity of going into the details of the Supreme Court decisions to which I refer. Let me simply mention them and I am sure you will need no further explanation. Among others were the Nelson case in Pennsylvania, the Slochower case in New York, the Girard College case, and the Watkins case.

In each there was a question of usurpation of power by the Court in issuing decrees which were more legislative than they were judicial in nature. Each such instance tends more and more to increase the power of the central government.

The best illustration of attempted usurpation of the rights of the States by the Congress is the effort now going on in this Senate to enact this so-called civil rights bill. The real effect of enacting this bill would be to deprive citizens of rights guaranteed in the Constitution.
This should not be a sectional or regional matter. Devotion to the Constitution should be as important to the people of Arizona as it is to the people of Alabama; as important to the people of Montana as it is to the people of Mississippi, as important to the people of New York as it is to the people of North Carolina, as important to people yet unborn as to you and me today.

Our American way of constitutional government, and its guarantee of liberty and the right of local government, is a heritage worth fighting for. Our men marched beneath the burning sun in Africa; swam ashore at Salerno; stormed the rocky beach at Normandy; planted the Stars and Stripes on the highest peak of Iwo Jima; and fought again for freedom from Pusan to the Yalu River in barren Korea to uphold and defend the Constitution of the United States.

If this so-called civil rights bill should be approved, then we must anticipate that the Federal Government, having usurped the authority of local government, will send federal detectives snooping throughout the land.

If there are constitutional proposals here which any of the States wish to enact, I have no objection to that. Every State has the right to deal with any matter which has not been specifically delegated to the Federal Government in the Constitution.

On the other hand, I am firmly opposed to the enactment by Congress of laws in fields where the Congress has no authority, or in fields where there is no necessity for action by the Congress.

From my observations, I have gained the strong feeling that most of the States are performing their police duties well. I believe that the individual States are looking after their own problems in the field of civil rights better than any enactment of this Congress could provide for, and better than any commission appointed by the Chief Executive could do.

What could be accomplished by a federal law embodying
provisions which are already on the statute books of the States that cannot be accomplished by the state laws? I fail to see that any benefit could come from the enactment of federal laws duplicating state statutes which guarantee the rights of citizens. Certainly the enactment of still other laws not approved by the States could result only in greater unrest than has been created by the recent decisions of the federal courts.

The truth is very much as Mr. Dooley, the writer-philosopher, stated it many years ago, that the Supreme Court follows the election returns. If he were alive today, I believe Mr. Dooley would note also that the election returns follow the Supreme Court.

I would like to comment specifically on some of the proposals in the bill on which consideration is asked. First, on the proposal for the establishment of a Commission on Civil Rights.

There is absolutely no reason for the establishment of such a commission. The Congress and its Committees can perform all of the investigative functions which would come within the sphere of constitutional authority. The States can do the same in matters reserved to them.

Furthermore, there is no justification for an investigation in the field of civil rights.

Among the powers of the proposed Commission are several to which I would call attention. It would have the power of subpoena for witnesses, meaning that citizens could be summoned away from their homes to answer the questions of a federal bureaucrat on matters which are rightfully controlled by the States.

If a citizen objected to testifying in executive session, as the Commission would be authorized to meet, he would be subject to being forced to do so by a court order. Otherwise, he could be held in contempt.

The political nature of the Commission, and the entire bill as well, is rather bluntly pointed up by two of its provisions. One provides that the Commission "may accept and utilize services of voluntary and uncompensated personnel" in the work of the Commission. Another provision authorizes the Commission, or a subcommittee, "at least one of whom shall be of each major political party," to hold hearings.
The bill provides further that "not more than three of the members shall at any time be of the same political party."

The only persons who would be willing to serve voluntarily and uncompensated in such work as that planned by the proponents of this Commission would be partisans seeking to impose their sociological and psychological theories on others. They would be the fanatics who sought harsher measures to accomplish their purpose of forcing the mixing of the races. Doubtless the Commission could secure more than enough such volunteers to carry on its work from the ranks of the NAACP, the ADA and organizations of such ilk.

Although there are some agencies of the Federal Government which are constituted by laws requiring membership from the two major political parties, there should be no necessity for such a requirement in the proposed Commission unless its reason for being is political.

My view is there could be no other cause for such a Commission except the cause of politics.

Part II of the bill would provide for an additional Assistant Attorney General. I have searched the testimony given by the Attorney General before the Committees of the Congress with regard to this proposal, and I have found no valid reason why an additional Assistant Attorney General is needed in the Justice Department.

I can understand how an additional Assistant Attorney General might be needed if the Congress were to enact Part III of the so-called civil rights bill.

If the Justice Department is permitted to go into the various States to stir up and agitate persons to seek injunctions against their neighbors, then the Attorney General might need another assistant.

In fact the Justice Department could stir up its own trouble, if this bill should be approved, because it would no longer be required that a party in interest sign a complaint in the civil actions contemplated. The Justice Department could instigate its own civil cases on behalf of a person who might even object to such action.
Certainly the Justice Department would need not only another Assistant Attorney General, if this bill should be approved, but also the assistance of the military forces, the use of which also is contemplated under this bill.

But, Mr. President, in the words of homey philosophy which I have heard all of my life: You can lead a horse to water, but you can't make him drink.

You can legislate and you can decree, but you can never make the people of the South give up their personal freedom, even by the use of force.

Part III also would empower the federal district courts to take original jurisdiction in suits or injunctions started under this bill. This would by-pass the administrative remedies established under State laws and circumvent the authority of the State courts.

The most vicious device in this part of the bill is the design to deny citizens the right to trial by jury by entering a civil action against persons who should be prosecuted on a criminal charge, if they have committed any violation of the laws which protect the civil rights of every citizen. This provision of the bill would establish power for the Justice Department to secure injunctions to restrain persons the department believed to be "about to engage in any acts or practices" in violation of civil rights statutes. How anybody could determine what might be in the mind and heart of a person is beyond my comprehension. In simple terms this provision appears to mean that completely innocent persons could be brought before a federal judge and jailed without a jury trial for contempt of an order issued by the judge.

I shall later discuss the principle of trial by jury at some length, but at the moment I want to point out the extreme power which would be granted to the Attorney General by enactment of this part of the bill.

He could dispatch his agents throughout the land. They would have the authority to meddle with private business, police elections of the States, intervene in what should be private lawsuits, and breed litigation generally. They would keep our
people in a constant state of apprehension and harassment. Liberty perishes quickly under such government, as we have seen it perish in foreign nations.

Congress, as the directly elected representatives of the people, should be the last to give any hearing to measures to deprive the people of their freedom. But, if this proposal to provide the Attorney General with tyrannical power should be taken up and enacted, the people will truly be deprived of rights long held dear.

The by-passing of State administrative agencies and the courts of the States is another matter we should consider most seriously. This could easily be the first step toward eventual elimination of the courts of the States. If they were to be by-passed in civil rights cases, they could also be by-passed in other types of cases.

I do not believe the Congress has — or should want — the power to strip our State courts of authority and vest total power in the federal judiciary.

Every step along the road toward greater centralization of government is a step away from the constitutional principles upon which this Nation was founded.

We must not forget the words of Lord Acton that: "Power tends to corrupt; absolute power corrupts absolutely."

Thus the more power placed in the Justice Department, the greater likelihood there will be that justice will be abused instead of served.

Now let me proceed to Part IV of the bill. Although the bill has been advertised by its advocates as a "right to vote" measure, the need for legislation on this subject is so unnecessary as to make that claim ridiculous.

I have had a search made of the laws of all the 48 States and the right to vote is protected in each one.

In South Carolina, my own state, the Constitution specifies in Article III, Section 5, that the General Assembly shall provide by law for crimes against the election laws and, further, for right of appeal to the State Supreme Court for any person denied registration.
The South Carolina election statute spells out the right of appeal to the State Supreme Court. It also requires a special session of the Court if no session is scheduled between the time of an appeal and the next election.

Article II, Section 15 of South Carolina's Constitution, provides that no power, civil or military, shall at any time prevent the free exercise of the right of suffrage in the State.

In pursuance of the Constitutional provisions, the South Carolina General Assembly has passed laws to punish anyone who shall threaten, mistreat or abuse any voter with a view to control or intimidate him in the free exercise of his right of suffrage. Anyone who violates any of the provisions in regard to general, special or primary elections, is subject to a fine and/or imprisonment.

In this proposed federal bill to "protect the right to vote," a person could be prosecuted or an injunction obtained against him based on surmise as to what he might be about to do. This is the same perverted use of the civil court injunction as in Part III of the bill, designed for the purpose of denying trial by jury to persons charged with having engaged in such an act or those whom a federal official accuses of being "about to" violate the voting laws.

We have heard many claims that this provision is needed because some persons are prevented from voting by other persons. But I do not know of a single case having arisen in South Carolina in which a potential voter charged that he had been deprived of his right to cast his ballot. Had such an instance taken place, I am sure that the person making the charge would have been given justice in the courts of South Carolina.

The Federal Government has no monopoly in the administration of justice.

Both white and Negro citizens who meet the requirements of South Carolina's voting laws exercise their franchise freely. Our requirements are not stringent. The payment of a poll tax is not a prerequisite to voting. It is simple to meet the requirements of registration because re-registration is necessary
only once in 10 years.

Proof that Negroes vote in substantial numbers in South Carolina — if proof is desired — can be found in an article which was published in a Columbia, S. C., newspaper following the general election in 1952.

The November 8, 1952, issue of The Lighthouse and Informer, a newspaper published by and for Negroes/carrried an analysis of the election in South Carolina. A story which appeared on page one read as follows:

"... There was no doubting that South Carolina's Negro voters were the only reason the State managed to return to the Democratic column.

"Late figures Wednesday afternoon gave Governor Adlai Stevenson 165,000 votes and General Dwight D. Eisenhower 154,000. Some 9,000 other votes were cast for the Republican Party for General Eisenhower but cannot be added to the 154,000 cast by South Carolinians for Eisenhower.

"The more than 330,000 votes counted in 1426 of the State's 1563 precincts represented the largest cast in the State since Reconstruction days.

"Estimates placed the Negro votes at between 60,000 and 80,000 who actually voted..."

Those are the words of the newspaper, not mine. I have no doubt that the Negro vote in the 1952 general election and the one in 1956 was heavy in South Carolina. The reports which came to me indicated a large turnout.

A dispatch of the United Press from Columbia, on November 6, 1952, fully supported the claim of The Lighthouse and Informer as to the impact of Negro voting in South Carolina. It said in part: "Stevenson won South Carolina by less than 12,000 votes and the Negro electorate held the balance of power in the State..."

I think it is significant that even though, as the newspaper article said, the vote in 1952 was the largest cast since Reconstruction, that the Negroes claimed up to 80,000 voters — a fourth of the total. Certainly this is clear evidence that a new federal law is not needed to guarantee anybody the right to vote in South Carolina.
Mr. President, I oppose absolutely the consideration of this bill, H.R. 6127. It is completely unnecessary and in many respects unconstitutional in its objectives. The people of the United States should not be deceived.

No explanation can alter the fact that it is specifically designed as a "force bill." The result of its enactment would be to deprive the people of rights guaranteed in the Constitution and in the Bill of Rights, not to strengthen the rights of the individual.

The infringement of rights would be accomplished by denying the right of trial by jury to persons charged with violating or being about to violate the provisions of the bill by failure to comply with an order or injunction issued pursuant to the bill. A person accused of contempt under such circumstances should be guaranteed a jury trial in a criminal proceeding. But the advocates of this bill propose to destroy the constitutional guarantee of trial by jury through the expedient of a corrupted use of injunctions issued by federal judges.

Mr. President, there is no question as to the power of a court to punish a contempt committed in the presence of the court or so near thereto as to obstruct justice. Such authority must be vested in the courts to maintain respect for the administration of justice. From earliest times, the common-law courts have had the power to punish contempts done in their presence.

The contempt procedure was gradually refined, and a difference arose between principles which apply on abusing a process server and libelating a court. In his review of The King v. Almon, Arthur Underhill states that Hale in his Pleas of the Crown cites an instance "...of a man attached by bill to answer to the King and a party for an assault committed on the plaintiff when he came to prosecute a suit in the King's Bench...and attachment by bill to bring the defendant before the court where the question was tried in the ordinary course of law...It would seem that in early times contemptuous conduct on the service of process was punished after conviction by a jury and not by summary procedure."
When Congress enacted the Norris-LaGuardia Act in 1932, it specified that, "in all cases arising under this Act in which persons shall be charged with contempt of a court," the persons so charged would have the right to trial by jury. Since the Norris-LaGuardia Act dealt with the powers of federal courts to issue injunctions in labor dispute cases, the effect of the act was to guarantee trial by jury when a person was charged with contempt of an injunction growing out of a labor dispute.

Section 11 of the Norris-LaGuardia Act, which contained this protection, was repealed in 1948 and superseded by what is now Title 18, Section 3692 of the United States Code.

This section reads as follows:

"In all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute, the accused shall enjoy the right of a speedy and public trial by an impartial jury of the State and district wherein the contempt shall have been committed."

Under the present federal law, other citizens do not have the same protection as labor under the statutes. Title 18, Section 401
of the Code gives the federal courts power to punish at their discretion, not only contempts in the presence of the courts and contempts of court officers, but also:

"Disobedience or resistance to its lawful writ, process, order, rule, decree, or command."

Note carefully that what this means is one segment of our people have already been extended the statutory protection of jury trial in contempt cases, while all other citizens are excluded and are subject to the summary action of the federal courts.

Recall, if you will, that under the provisions of Parts III and IV of the bill pending on the Senate calendar, the Attorney General is authorized to "institute for the United States, or in the name of the United States" civil action "or other proper proceeding" in so-called civil rights cases and voting cases. One of the purposes of this provision is to use it in conjunction with Section 3691 of Title 18 of the Code.

Section 3691 combined with the provisions of the proposed bill would constitute another method of denying the right of trial by jury in the actions contemplated by the Attorney General. This section provides that the right of trial by jury shall not apply in contempts when the action is "brought or prosecuted in the name of, or on behalf of, the United States."

Mr. President, I am sure that few American citizens realize that such existing provisions of the laws have infringed on their constitutional right to trial by jury. I am sure also that few have fully realized, as yet, that the combination of existing laws with the provisions of the so-called civil rights bill would further limit jury trials.

Under our laws, a person charged with the most heinous crime is entitled to trial by jury. Surely there is not a majority of this Senate who would deny the same right to a citizen charged with violating an injunction.

The validity of injunctions is subject to dispute and I cannot see any reasonable grounds for the claim to be made that justice would be best served by the denial of trial by jury in contempts arising out of injunctive proceedings.

The people of this country believe in constitutional
government. I believe they want it strengthened instead of
weakened.

I believe that a majority of the people of this Nation
strongly support the provision of the law/providing for trial by
jury in contempt cases arising out of labor disputes. Certainly
they would also support the extension of this provision/so as
not to discriminate against persons charged with contempt in
cases other than labor disputes, and to provide for trial by jury
to everybody.

The Senior Senator from Illinois, who strongly advocates
the consideration and passage of H.R. 6127, the so-called civil
rights bill, was just as strong an advocate in 1932 of protecting
persons from contempt action in labor dispute cases.

In a book entitled, The Coming of a New Party, published in
1932 and dedicated to Norman Thomas, the Senator decried contempt
actions without trial by jury in labor cases.

On page 42 of the book, he wrote:

"This weighting of the scales against labor manifests itself
in myriad ways. According to the present status of labor law not
only can an employer require a worker, as a condition of receiving
or keeping employment, to sign a 'yellow-dog' contract whereby the
latter agrees neither to join a union nor to talk with those who
may seek to induce him to join, but any statute prohibiting such
a contract is treated as unconstitutional. In the opinion of our
courts such laws violate the Fourteenth Amendment by limiting the
power of an employer to fix the terms upon which the employment
of a worker will be acceptable to him. Nor is this all. The
employer is then permitted to obtain an injunction/restraining
the unions from approaching the workers who have signed such a
contract and from attempting to organize them. If they try to do
so, they are liable for contempt of court and their officials can
accordingly be sentenced to jail, without a jury trial, by the
judge who issued the original order."

Mr. President, I hope the Senator from Illinois will apply
the same eloquence to a plea on behalf of all our citizens. His
words, "sentenced to jail, without a jury trial, by the judge who
issued the original order," are just as important today as when
he wrote them 25 years ago. The principle involved is the same. Situations may change, but principles remain immutable. Time does not alter the moral law.

During recent years, all of us have heard much of the difficulty of clearing court dockets and of the congestion of the dockets because of this difficulty. On May 9 of this year, Justice Brennan of the Supreme Court addressed the Mountain and Plain Regional Meeting of the American Bar Association in Denver, Colorado, and discussed this point of calendar congestion.

I believe some of his remarks will be of interest as we seek more light on the subject of trial by jury. These are the words of Justice Brennan:

"Another nostrum is that, because jury trials take more time than trials before a judge without a jury, the easy answer to calendar congestion is to get rid of jury trials in automobile accident cases...

"...The success of our British brothers in abolishing jury trials should not mislead us. American tradition has given the right to trial by jury a special place in public esteem/that causes Americans generally to speak out in wrath at any suggestion to deprive them of it...One has only to remember that it is still true in many States that so highly is the jury function prized, that judges are forbidden to comment on the evidence and even to instruct the jury/except as the parties request instructions. The jury is a symbol to Americans that they are bosses of their government. They pay the price, and willingly, of the imperfections, inefficiencies and, if you please, greater expense of jury trials because they put such store upon the jury system as a guaranty of their liberties..."
Surely the Congress which is elected directly by the people, and so close to them, realizes the validity and the strength of the theme propounded by Justice Brennan on behalf of jury trial.

Remove its protection and you have made liberty less secure. Little by little freedom will dwindle away, if we fail to be vigilant.

In the decision of June 10 in Reid v. Covert, the Supreme Court itself made certain comments on the matter of trial by jury. Although the case under consideration was not similar to those which might arise under the provisions of the so-called civil rights bill, yet certain comments of the Court should be of interest.

The opinion included the following:

"Trial by jury in a court of law and in accordance with traditional modes of procedure after an indictment by grand jury has served and remains one of our most vital barriers to governmental arbitrariness. These elemental procedural safeguards were imbedded in our Constitution to secure their inviolateness and sanctity against the passing demands of expediency or convenience."

And further:

"If ... the Government can no longer satisfactorily operate within the bounds laid down by the Constitution, that instrument can be amended by the method which it prescribes. But we have no authority to read exceptions into it which are not there."

Mr. President, no wiser words have been spoken by the Court in several years. Expediency or convenience should never be the reason for the enactment of a new law by the Congress. The actions of expediency are most often the actions of regret.

Wisely, too, the Court warns against trying to amend the Constitution except "by the method which it prescribes," a rule I wish the Court itself had followed more faithfully. Nevertheless, the fact that this principle has not always been adhered to in the past in no way alters its validity.

If the proponents of this so-called civil rights bill want to deny the right of trial by jury to American citizens, they should
proclaim their true objective and seek to remove this guaranty from the Constitution. Then the people of this Nation would not be misled, as some have been, to think this bill would give birth to a "right to vote" for anybody -- a right already held by those it purports to help.

On March 27 the Senior Senator from Mississippi introduced a bill, on which I joined him as a co-sponsor, to insure the right of trial by jury for persons charged with contempt of court. This bill would simply provide the same protection to every citizen/as that now held by persons charged with contempt in labor disputes.

If the purpose of the so-called civil rights bill were really to give greater protection to individual citizens, as is claimed, then why have the sponsors refused to include the additional protection of the right of trial by jury? I believe the answer to that question is obvious.

The sponsors find it hard to reconcile themselves to modifying this force bill with any protective element.

To me it is strange that some of those who could support the enactment of laws to protect persons engaged in labor disputes cannot find it in their hearts to extend the same sympathy and protection to other Americans.

Even an amendment to guarantee the right of trial by jury would never make this so-called civil rights measure remotely acceptable to me, but it is not necessary to pass this bill to end the present discrimination in the matter of jury trials. The Judiciary Committee could quickly report the separate bill on jury trial in contempt cases, if there is a great desire in this Senate today to enact a real civil rights bill/which is within the constitutional power of the Congress.

Mr. President, I regret there appears to be little interest in protecting the right of trial by jury. This was a right so precious to our forefathers/that they wrote three provisions into the Constitution and the Bill of Rights embodying the principle.

I have tried here today to express the views, not only of myself, but of the people I represent. I have tried to explain to you some of the reasons for our customs and traditions which
are different from those of other States.

Also, I have tried to convey to you the convictions of my people and the determination which possesses their very souls. They have not been confused by the provisions of this so-called civil rights bill, which I hope will not be forced up for consideration. The people of my State fully realize the terrible authority with which this bill would endow the Attorney General, the District Attorneys, the federal marshals, and the federal courts.

My people do not intend to submit meekly to what they know/ to be unnecessary and unconstitutional. They are fearful that freedom will vanish and liberty perish/when such power is vested in the officials of a government distant from them/and remote in its understanding of their problems.

Profound human emotions are bound up in this entire matter. Traditions, customs and mores cannot be resolved by political agitation, by court fiat, or by force of law.

Urgency of action will not attain the results sought by the sponsors of this legislation. Understanding should replace urgency in this matter.

Mr. President, the worst argument that can be used in favor of this bill/ is that the end will justify the means. Already the unusual application of a Senate rule has been applied to have the bill placed on the calendar of the Senate, instead of being referred to a Committee. Doubtless other similar short-cuts are being contemplated by the sponsors.

But, while they know the means they intend to use in seeking passage of the bill, the sponsors have no conception of what the end will be/ if they should be successful in their efforts. I hope, Mr. President, we shall never have to face the evil day/ of reaping the harvest from the seeds of H.R. 6127, or any of its counterparts.

Mr. President, I urge against the further consideration of this bill. I urge against bringing upon the people of this Nation/ the results which would be sure to ensue.

THE END

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