

(72-21)

STATEMENT OF SENATOR STROM THURMOND (D-SC) ON JENNER-BUTLER  
AMENDMENT TO H.R. 6789 on Senate Floor, AUGUST 20, 1958.

MR. PRESIDENT:

The pending amendment is of particular interest to me/because I have had a life-long interest/in all things pertaining to the delicate balance of power existing between the three branches of the Federal Government/and between the Federal and State governments.

In the present instance, we are confronted by an alarming trend on the part of the Judicial Branch of the government, headed by the Supreme Court, to usurp fields of responsibility that belong elsewhere.

Not only has the Court dealt deadly blows/to the Constitutional principle of States' Rights/and to the law-making power of the Legislative Branch of the Federal Government, but the Court has also struck at the fundamental authority vested in the Executive Branch.

The time is long past due for action by the Congress/to call a halt to this unconstitutional seizure of power/by the third branch of the government.

The amendment which is before us does four things:

1. It forbids the Court to review cases challenging State rules for admission to the bar, *except in certain cases.*
2. It would make Congressional committees the final judges of whether questions asked of their witnesses are pertinent.
3. It would affirm the right of States to enforce their own anti-sedition laws.
4. It would broaden the Smith Anti-Sedition Act by forbidding "theoretical advocacy" of the forcible overthrow of the government as well as advocacy which is "incitement to action."

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The passage of this amendment limits the jurisdiction of the Supreme Court/with respect to review of State rules for admission to the bar. In no other way would the Court's jurisdiction be diminished.

This bill is badly needed to preserve the autonomy of the States, to insure effective congressional investigation, and to protect the very existence of our State and local governments against sedition.

This bill has been the subject of detailed study by the Judiciary Committee. To me, the Jenner Bill as introduced/is more preferable than the Jenner-Butler Amendment/which is pending. In fact, I would prefer an even stronger bill than that introduced by Senator Jenner. This is the only bill, however, which deals with specific decisions/on which the Senate will have an opportunity to act at this session, and for that reason, I shall support the Jenner-Butler Amendment.

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