Mr. President:

During the debate on the confirmation of Potter Stewart to be Associate Justice of the Supreme Court, I pointed out the dangers inherent in recent decisions of the Supreme Court concerning Communists and Communist sympathizers. I called attention to the fact that as a result of over-zealous and unwarranted concern for the purported rights of those who look with contempt on our republican form of government, a series of recent decisions of the Court has, in effect, written a "Red Bill of Rights" in the United States. As a result of these decisions, I am firmly convinced that this country has immeasurably more to fear from Communist subversion within the United States than it has from armed attack from the Soviet Union. To substantiate this conviction, I will refer to only a few of the recent pronouncements of the over-solicitous Supreme Court. In the Yates Case, the Court said that anyone may advocate the forcible overthrow of our Government with impunity, so long as it is in the abstract and there is no time set for overt acts. In the Cole and Service cases, it was held that Federal employees may freely associate with Communists without fear of discharge if they hold nonsensitive jobs. Over the protests of practically all of the States of the Union, and of the Attorney General of the United States, the Supreme Court held invalid all State laws concerned with sedition in Pennsylvania v. Nelson. These are only
a few examples of the Court's utter disregard of legislative intention and attendance to judicial "nit-picking".

Mr. President, on Monday of this week the Supreme Court added another amendment to the "Red Bill of Rights" by ordering the Interior Department to reinstate an employee it had fired twice in the last five years on the ground that his continued employment was contrary to the best interests of national security. As a further result of this decision, the Federal Government will be required to pay $30,000 in back pay to one who has been classified as a "security risk", who has been in sympathetic association with Communists or Communist sympathizers and who the courts said had lied about such associations before a Federal Loyalty-Security Board inquiry. And thus a Department of the Executive Branch of our Government is ordered by the Supreme Court to reinstate an employee whom it has already determined is in such close association with Communists or Communist sympathizers that his continued employment is inimical to the best interests of our country. Judicial usurpation of power by the present Court is not confined to encroachments on the legislative branch, but as Vitarelli v. Seaton so well attests, it extends to the Executive Branch as well.

Mr. President, Government employees sought to be dismissed should be given the benefit of all procedural protections required by applicable statute and regulation. Persons so situated should be entitled to be free from dismissal on unconstitutional or flagrantly abusive grounds. But no such dismissal occurred in the Vitarelli Case. Vitarelli was at no time within the protection of the Civil Service
Act, Veterans' Preference Act, or any other statute relating to employment rights of Government employees. This man who had been classified as a "security risk" could have been summarily discharged by the Secretary of the Interior at any time. The Lloyd-LaFollette Act and the Veterans Preference Act—the general personnel laws—authorize dismissals for "such cause as will promote the efficiency of the service". Thus there was no want of substantive authority for the dismissal, and since Vitarelli was not in a "sensitive position", he was not entitled to a hearing before a Loyalty-Security Board. The Supreme Court brazenly admitted that Vitarelli could have been summarily discharged had the Secretary of the Interior chosen to do so. It justified the order of reinstatement to the Department of the Interior and the payment of $30,000 on the ground that because the Secretary informed Vitarelli of the grounds on which he was being discharged—notification of which he was not entitled in the first instance—the employee was entitled to all of the procedural requirements of someone in a "sensitive" position. Mr. President, it is an impossibility to deprive a person of procedural due process unless he is entitled to it in the first instance. By its own admission, the Supreme Court recognized that Vitarelli was not entitled to procedural due process in this case. The rationale by which the Court reached the conclusion that this security risk must be afforded all of the procedural requirements of one in a sensitive position is typical of its rationalizations in other cases dealing with those who would overthrow our form of government.
Lest there be any doubt that he was exercising his authority to summarily dismiss a subordinate in the Department of Interior, the Secretary expunged the Department's records of any reference to the Communist activity of Mr. Vitarelli, and notified him of his dismissal in October, 1956, omitting all reference to any statute, order, or regulation relating to security discharges. There is no question whatever, Mr. President, that the Secretary of the Interior had the authority to summarily dismiss this employee, for whatever cause he saw fit, and in a manner that saw him removed from the ranks of Government employees at the earliest possible opportunity. However, the Supreme Court, in a marvelous display of judicial gymnastics, held otherwise. A majority of the Court said that because the 1954 dismissal was abortive, no effect would be given to the 1956 dismissal, notwithstanding the fact that it was within the letter of exercise of the summary dismissal power. Even if it be conceded that the discharge of 1954 was invalid, the prior action did not deprive the Secretary of the power to fire Vitarelli prospectively. It was a lawful exercise of the summary dismissal power, and the Supreme Court held that it meant, administratively, nothing. The Court has frustrated every attempt of the Interior Department to rid itself of this undesired employee. It has afforded him a Security Hearing when he was not entitled to one, and it has validly exercised the summary dismissal power on another occasion.

On Monday of this week, the Supreme Court said that not only has Vitarelli not been validly discharged, but that he is entitled to back pay of $30,000. How is the Federal Government to rid itself
of subversive elements within its very ranks?

Typical of its opinions in recent years, Mr. President, the Supreme Court has once again disregarded the actualities of the situation. The power of the Executive to discharge for untrustworthiness or deliberate misrepresentation is beyond dispute. The Secretary of the Interior had unfettered authority to summarily dismiss William Vincent Vitarelli, and did so, only to have this authority frustrated by the Court. In doing so, it gratuitously transformed itself into a fact-finding body, criticising the substance of the charges against Vitarelli and the form of the questions propounded at the security hearing. It is not the function of the Supreme Court to decide whether an employee is or is not untrustworthy, or a "security risk". Vitarelli v. Seaton is another example of an unreal interpretation by the Supreme Court resulting in disproportionate concern for Communist sympathizers and the attribution of illegality to a lawful exercise of governmental action.