1962, freedom is a one-way street. The children in the public schools are free not to pray even if they want to. This really is freedom from religion, and not freedom of religion.

Once, there was a great portion of the Constitution. Any objective student of American history cannot deny the clear and simple purpose of the First Amendment. The writers of the Constitution did not want a state church. Our Founding Fathers did not want any church—whether be Presbyterian, Methodist, Episcopalian, Catholic, or any other denomination—to be maintained by tax funds. That was it. There is no evidence that any of the Founding Fathers had any idea of driving a religious faith.

The history of the Constitution clearly shows that the drafters intended no hostility toward religion. The excesses of the church in old Virginia prompted political hostility and thus the First Amendment was drafted to put an end to tax-supported churches. There was no intention to create a society acceptable only to unbelievers.

One wonders where the godless minority will strike next in our country. Shall we be forced to do away with chaplains in our armed forces and the chapels in our military academies? Longer and longer school children lift their voices in the inspiring song, “God Bless America”? Pray tell what is next.

Dean Erwin Griswold of the Harvard Law School has stated it well: “In a country which has a great tradition of tolerance, is it not important that minorities, who have benefited so greatly from that tolerance, should be tolerant, too, as long as they are not compelled to take affirmative action themselves, and not act out the manner in which they cannot wait out, or pass respectfully by, without their own personal participation, if they do not want to give it?”

Our system of government which emphasizes the freedom of the individual, is connected with religious faith. It would be a sad day in the history of our country if it should cease to be. But there is fear this day that we are drifting ever closer to a time when all of the religious traditions of our country will be forgotten.

It shall be tragic indeed for our beloved America if her people turn to God only in times of great crisis. Theninger as suggested by little card posted in one school which reads, “In case of atomic attack the Federal rule against praying in this school will be temporarily suspended.”

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is terminated.

INTERFERENCE WITH CIVIL RIGHTS

Mr. HART. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The clerk will state the bill by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

The PRESIDING OFFICER. Without objection, it will proceed to the consideration of the unfinished business.

The Senate resumed consideration of the bill.

Mr. STENNIS. Mr. President, I do not intend to detain the Senate for any great length of time on the pending matter, but I have been concerned for several years with the general subject matter of law enforcement, the attitude of a great number of people about observance of the law, the attitude of people to certain crimes that have crept in gradually, a feeling described as civil disobedience, the actual preaching by a number of people in high, responsible positions, even in church leadership, of civil disobedience being justified under some conditions.

My growing concern with respect to law enforcement and the attitude toward obedience of the law throughout the country is partly upon my experience as a practising lawyer. I have had a good number of years. Part of that time I was a district attorney and dealt with a great number of serious cases, as well as minor ones. I was also privileged to be a trial judge in the State of Mississippi.

I really wanted to get together what might be called a specially prepared speech on this subject. I am going to discuss part of it briefly today, even though the measure.

Mr. President, my basic belief is that the matter of law enforcement is not one of just added criminal laws of any kind. The lack of criminal laws is not where the trouble lies. I think the basic need is to have a wholesome respect for the laws of the country a wholesome respect for law and order, a demand for law and order, rather than tolerating organized resistance or violation of the law.

I think there must be generated again in the communities of this great Nation, and at the community level, a wholesome atmosphere for obedience of the law. Also, it must emphasize again, rather than talk all the time about rights for this and rights for that, the basic need for responsibility and duty that lie at the very threshold of citizenship and the very threshold of the training of our young people toward the responsibilities of a society. Those ideas have not been altogether abandoned, but they certainly have been neglected.

I am certainly not critical of the home and the school, but I do not see in the home, the good, fatherly, stern training that I think is necessary for the good of our youth during their formative years, the right attitude toward those duties and responsibilities, and the way they are on respect for law, and how dependent all of us are on discipline, and self-control in the first place, discipline of mind and body, and the need for discipline in society.

I think we have wandered off somewhere on the idea that all the trouble is with the police department; that all the trouble is with the Congress for failing to pass laws or appropriate money. The trouble is with a whole other side of the picture. Each of these people go out and organize and get the sympathy of some well-meaning people, and before we know it, there is a movement. All of these matters have culminated in the wrong emphasis with reference to obedience of the law and order.

I think that I speak with all due deference to the court. I do not wish to attack the court as an institution—never. And I have no attack to make on any individual member of the court.

But as a practicing lawyer of considerable experience, having dealt in the problems of public life for a long time, there is no doubt in my mind that this series of cases, beginning with the Mallory case about 10 years ago, and coming on down to the present, to which there have been many very respectable dissenters, has only served to hand out the law-enforcement officials, particularly with respect to the admissibility of evidence.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. STENNIS. I am happy to yield to the Senator from Georgia. He is a very competent man and, with vast experience, not only as a lawyer, but as chief executive of his State.

Mr. TALMADGE. I appreciate the generosity of my distinguished friend from Georgia.

Did the Senator from Mississippi see the article in the Washington newspapers that I saw last week, reporting that a confessed murderer had been discharged by a court in the District of Columbia, under the so-called Mallory rule, because he allegedly had been held for a certain period of time before they had arraigned him?

Mr. STENNIS. Yes. As a matter of fact, I was very much interested in that and, since the Senator has mentioned it. It was not the article that prompted my remarks on this subject, but I did bring it up.

Mr. TALMADGE. Does not the distinguished Senator agree that court-made law such as that helps to account for the enormous increase in crime we have experienced? If my memory serves me correctly, I think there was an increase of some 16 percent in the first 9 months of last year.

Mr. STENNIS. I think the Senator has stated the matter well and truthfully. I can answer it further in this way: I believe that if Congress were to get some measures passed that will offset the trends of these decisions, and get it over to the people some way, through constitutional amendment or otherwise, that we have to begin to put the proper emphasis on the part of the people, the masses of the people, the great body of the people, rather than continuing to lean over backwards to protect the few who may be charged with crime, or other special groups.

We have to get laws that will force the courts—in a constitutional way, of course—to do more in terms of protecting the people, the body of the people, the public, and to counteract this trend of the courts in the manufacture of law by the courts, by the Constitution. I never heard of until a few years ago.

Mr. TALMADGE. Will the Senator yield further?

Mr. STENNIS. Yes. As I yield.

Mr. TALMADGE. Does not the Senator feel that the rights of law-abiding, God-fearing, honorable citizens, who work for a living and pay taxes, are equal to the rights of some murderer or some insurgent who runs rampant on society?

Mr. STENNIS. The Senator’s question, of course, is well stated and answers itself. They are not only of equal importance, but more important, are necessary to the preservation of society.
Mr. TALMADGE. It is necessary to protect the rights of the masses of the people. I hope not.

Mr. STENNIS. Yes. That is the whole basis of the law.

Mr. TALMADGE. Does not the Senator feel also that some of these people who run around the country preaching that it is all right to violate laws you feel are unjust, unwise, and immoral contribute to the breakdown of law and order in our society, as we see it occurring today?

Mr. STENNIS. I do not think there is any doubt that there is a breakdown of law and order. Things start and grow, and grow until there is an avalanche, and we are in the avalanche period now to a degree, although that spirit does not yet represent the thinking of the majority of the people.

I believe people are standing speechless in amazement that such a thing could happen and is happening, and that we seem unable to do more about it.

Mr. TALMADGE. I agree with the honorable Senator. I think that a majority of the people of America today regard the breakdown of law and order, the spirit of anarchy that is running rampant in this land, the violence that we see from day to day and from night to night. I believe that the crime problem is equal in importance to the war in Southeast Asia itself; does not the Senator agree?

Mr. STENNIS. Yes, I think so; and the Senator from Georgia and I both put great emphasis on the suffering and loss of life of our boys in Southeast Asia, and are deeply concerned about it.

This situation we face at home is of equal importance, and could develop more and more into a situation that would be a more serious challenge to our national security, even, than a war.

Mr. TALMADGE. The District of Columbia, which is the Capital City of our Nation, should be the model city of our Nation; and yet it is the most crime-ridden city of any free world; yet almost every morning we read of heinous crimes being committed here on the streets and in the public parks of our Capital City; is that not true?

Mr. STENNIS. It is true, and it has been true now for several years, increasing without interruption and seemingly without end. It shows all too clearly where the emphasis has been: "Leave them alone, do not harass them, do not question them, you cannot do anything to them."

As the Senator pointed out, this article refers to just one instance where the court officially turned one loose because of the Mallory rule. The police, of course, have turned loose hundreds that never get to court because of these same restrictions, that had never been heard of until a few years ago.

Mr. TALMADGE. Is it not a fact that grocery store clerks and bus drivers are apprehensive about walking the streets of the District of Columbia at night, not to mention the fear that females must fear?

Mr. STENNIS. It has come to that, yes. In fact, one is apprehensive about leaving the house even in the morning, as to what might happen, even after the day has already come, to those we leave behind at home, even right here in the city of Washington, on Connecticut Avenue where I live. I know that from personal experience.

Mr. TALMADGE. Is it not a sad commentary on the law of our land when that can take place in the Nation's Capital?

Mr. STENNIS. It is not only sad, but alarming; and this trend must be stopped. My point at the beginning, before the Senator came into the Chamber, was that we are not going to be able to do it just by passing more laws.

Mr. TALMADGE. I agree.

Mr. STENNIS. We have to put the emphasis where it belongs.

Mr. TALMADGE. Does the Senator view along with me, as I do, the articles that we frequently see in the news media, reporting that when a law enforcement officer goes out and makes an arrest, mobs will form, not to aid the law enforcement officer, but to go to the aid of the criminals?

Mr. STENNIS. That is right. As someone expressed it, you get assaulted on the street, and before you get you to the hospital, they have already turned loose the man who assaulted you. And consider some of these rules that have been put out by the courts; and if a trial does occur, they come nearer trying the victim and the police than the man who made the assault. It is almost impossible for the victim to get a magistrate somewhere; do they not?

Mr. STENNIS. The Senator has correctly stated the situation. I wish to emphasize, now, that while our discussion of these matters may be regarded by some as just an attempt to kill time or to filibuster, I say that we are bringing up here fundamental issues that are being neglected in this country; and asking time, speaking of them with all deference, to urge the passage of a law already necessary and unwarranted departure from precedent.

Mr. TALMADGE. If they do not try the victim, they at least attempt to try the arresting officer, and find some alleged violation of the law he committed. They yell "police brutality" and bring him before some magistrate somewhere; do they not?

Mr. STENNIS. The Supreme Court majority went on and legislated on the subject, in effect. And that is not the Senator from Mississippi speaking now. This is what three justices of the Court said about the ruling that they handed down in that case. They said that the ruling was an unnecessary and unwarranted departure from precedent with grave implications for the continued use of out-of-court statements in law enforcement.

That is an exact summary of what has been happening here now for years and years. These are unnecessary and unwarranted departures.

Mr. TALMADGE. I wish to emphasize, now, that it was not necessary to evolve that rule in order to protect society or the individual. They further said that it was an unnecessary action by the Court to get up that rule, that it was beyond their authority. That is the way I interpret it. The justices said that the rule moved away from the precedent and had grave implications.

That case was decided in 1964. This is 1968. We have already seen what some of those implications were and are.

Mr. President, I will not develop the Mallory rule here. I said that case was the beginning of the series of shocking decisions about which nothing has been done yet. However, I predict that this Congress will have to do something about these decisions because at some time the Supreme Court will have to legislate on the things that are feared—I hope unnecessarily—for next summer, is tied up in the same committee that approved this bill now under debate.

That is the bill that is needed. This is a bill that is not needed. I think that is the most convincing thing involved. The same committee passed on these two bills.

Mr. President, I will not develop the Mallory rule here. I said that case was the beginning of the series of shocking decisions about which nothing has been done yet. However, I predict that this Congress will have to do something about these decisions because at some time the Supreme Court will have to legislate on the things that are feared—I hope unnecessarily—for next summer, is tied up in the same committee that approved this bill now under debate.

The defendant and another were jointly indicted on a narcotics charge and released on bail. Unknown to the defendant, the codefendant decided to cooperate with the Federal agents in a continuing investigation of the case. If they are going to solve all these matters, they have to investigate, of course.

The codefendant was provided with a continuing grand jury and was charged the defendant in an incriminating conversation which was recorded by the Federal agents removed from the scene. The statement was admitted into evidence over the objection of the defendant, and the defendant moved for the conviction was affirmed by the District Court of Appeals.

The Supreme Court reversed that case and held:

The petitioner—

Meaning the defendant—

was denied the basic protections (of the Sixth Amendment) when there were used against him at his trial evidence of his own incriminating words, which Federal agents had deliberately elicited from him after he had been indicted and in the absence of his counsel.

There were three dissenting justices. They were justices White, Clark, and Harlan. Without going into detail, the substance of their dissent was that this was a new rule that the Supreme Court had evolved. Those three justices said they considered the rule to be an unnecessary and unwarranted departure from precedent.

Those justices were merely saying in my view that the Supreme Court majority went on and legislated on the subject, in effect. And that is not the Senator from Mississippi speaking now. This is what three justices of the Court said about the ruling that they handed down in that case. They said that the ruling was an unnecessary and unwarranted departure from precedent with grave implications for the continued use of out-of-court statements in law enforcement.

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Mr. HART. Most certainly that would be the interpretation that should be given to our action if the Senate should favorably support the motion to table.

Mr. JAVITS. Would the Senate expect that is the concept which would then go out to the country; that that is all we have done? Would the Senate, as the manager of the bill, agree with me that this does not mean we have rejected all change upon all of that compromise upon some phases of it, just as it would not mean necessarily we exclude any amendment, but only that we have chosen, as the framework within which they work, in an effort to perfect a bill, the bill as reported by the committee?

Mr. HART. As I see it, that is all that would be implied, and that would certainly be demonstrated.

Mr. JAVITS. Senator If the Senate agrees with me that represents a test of the action which the manager of the bill is proposing to take in due course, in which I hope to have the privilege of joining with him and standing with him, there would be no substitute for substitute.

Thereby, in a sense, it would liberate the time from the doctrine argument and free that group in the Senate—if it is a majority, and in my judgment, it is a majority, and is much more than two-thirds—which does not adopt an approach toward this kind of social question but would be free to deal with it without that approach that there is anything right in a system which does differentiate between different elements of our population, and that we can all work our will on this measure.

Mr. HART. The Senator is correct in his statement. That would be the consequence of favorable action.

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

Mr. HART. I yield.

Mr. DIRKSEN. Mr. President, if there is any doubt, and if it makes any difference as to my own attitude on this measure, we have had innumerable meetings in the majority leader's office, and in my office. We have had the Attorney General, our staffs, the distinguished Senator from North Carolina, the distinguished Senator from Nebraska at our meetings, and we have done our best to come up with three or four different versions.

Mr. JAVITS. I think it is fair to express that without the one vote.

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

Mr. HART. I yield.

Mr. JAVITS. So this is an interim procedure. Does the Senator agree with that statement? Under those circumstances I wonder if the Senator agrees with me that under that situation persists—that the only way we will ever be able in any reasonable time to consider the business of the country and the Senate, and get a vote, after refence, amendment, and so forth, without by cloture?

Mr. HART. The Senator has stated the situation correctly.

Mr. JAVITS. Does it have some substance indicating the framework within which a majority, if it should carry, wishes to work, is the framework of the bill as reported by the committee?

Mr. HART. That does not mean that prevails. That does not mean a majority would prevail, not only that this is a frame upon which to put a bill.

Mr. HART. The Senator from New York has analyzed the situation as I see it also.

We must remember that there are some 25 to 30 amendments that have been filed. We are in the 14th or 15th day of discussion. I think orderly procedure requires us with a measure of responsibility on the bill, to take the action suggested.

Mr. JAVITS. Does it have some substantive importance indicating the frameupon which to hang a bill. That does not mean any amendment would prevail, but only that this is a frame upon which to put a bill.

Mr. HART. The Senator from New York has analyzed the situation as I see it also.

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February 6, 1968

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If I had no other reason for so doing, I believe that would be adequate to vote against the motion to table. I should be only too glad to give myself to this problem, but I must go on before, and try to exercise a maximum of restraint and patience in so doing.

Frankly, all these meetings were held in good grace and in good spirit. There was no acrimony whatever. We all came in with searching hearts and minds. I can continue to hope that we will continue to do exactly that, because I should like to see a bill before we have to resort to some kind of extreme action, either in the form of cloture or in the form of withdrawing the bill.

If there can be a bill to meet, in large part, the areas that should be served, then I am ready to do so.

Mr. HART. The Senator from Illinois, as always, explains clearly and eloquently the position he is taking and the reason for it.

I hope that the action I propose we take will assist and accelerate the development of effective worker protection bill. The motion is made in the belief that it will make a contribution to it.

I respect, of course, the feeling of the Senator from Illinois and I make plain that I understand that he has described have been developed over a period of days and I have never doubted that they were in good faith and in good spirit.

Mr. HOLLAND. Mr. President, will the Senator from Michigan yield?

Mr. HART. I yield for a question.

Mr. HOLLAND. This is a little more than a question. It enforces the point I made on yesterday and completes that point.

Mr. HART. There are several Senators who are under a time problem here. I would not want the discussion to go to an extent that we would not be able to put the question before us at quarter to 3.

Mr. HOLLAND. The point I make not go to any length. I thank the Senator for yielding.

Mr. President, yesterday, I called attention, in my brief remarks, to the dangers of undisciplined leadership which was being exercised by several of the so-called civil rights leaders, notably—and I name them—

Sammy Davis, Stokely Carmichael, Rap Brown, Dick Gregory, Martin Luther King.

I notice in the Washington Post this morning an article which I believe adds further to this point. It is entitled "King Says 'No' to L. B. J. on March." I ask unanimous consent to have this article printed in the Record.

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

King Says 'No' to L. B. J. on March Civil rights leader the Rev. Martin Luther King today rejected an appeal from President Johnson to abandon a planned protest march on Washington. And he says: Mr. President, I read briefly from the article as follows: Chicago, February 5—Civil rights leader the Rev. Martin Luther King today rejected an appeal from President Johnson to abandon a planned poverty protest march on Washington in April.

The last sentence reads:

Mr. HART. The Senator from Nebraska has expressed my sentiments very well. I certainly want it understood that I am not sold on the Ervin amendment. If the motion should not prevail, it would be my full intention to join with other Senators in seeking to perfect the amendment.

I know that the leadership has worked hard to try to devise a compromise. I have the uneasy feeling that if the motion does not prevail, we who voted against the motion to table will be overjoyed and excited about the Ervin amendment.

The Ervin amendment contains many good points. But there are some points to which I do not subscribe. So when I cast my vote, it will be with the understanding that I will continue to try to protect the proposed legislation without regard to what has happened.

Mr. KENNEDY of Massachusetts. Mr. President, I have given a great deal of thought to the arguments presented these past days by those Senators who oppose the enactment of H.R. 2516. I think it can be fairly said that most of their stated objections fall into one of these general categories:

Most insistently of all, we have heard that this bill would protect rioters, loot-
ers, and criminals generally and, correspondingly, would hamper and harass law enforcement officers, particularly in dealing with urban riot situations.

The opponents to this bill claim, further, that it somehow violates the spirit of the equal protection clause of the 14th amendment, by giving special benefits to one category of citizens. Thus, the proponents argued that the proposed statute would, in effect, discriminate against the majority—in particular, against those white persons from our southern States.

We have also heard that H.R. 2516 would infringe upon the powers of the Federal Government to manage its affairs, and of State authority. Opponents have claimed that the enactment of the bill would flood the Federal courts with cases here-fore solely within local jurisdiction, and that many innocent persons would be unnecessarily swept into the net of Federal criminal sanctions.

Strangely enough, we have also heard, on the other hand, that this statute would be impossible to enforce, since the requisite intent would rarely be capable of proof.

These, then, are the basic criticisms of H.R. 2516 made by the opposition. I strongly believe that each is based on incorrect views of the local scope of the bill and, therefore, on the factual circumstances which the statute seeks to meet. I should like to deal with each of these criticisms, and to reiterate in the process some of the many aspects of the committee bill which I consider not only desirable but necessary.

**RELATION TO LAW ENFORCEMENT**

First, I should have thought it would be clear to any objective student of this bill and its history thus far, that it is not intended to and would not condone or protect rioters or other violators of local criminal law. The present widespread concern over mass violence in our cities, as well as with the rising national crime rate, in fact, quite demand the urgent congressional action on such measures as safe streets and the gun bill. However, this distressing situation does not diminish or overshadow the need for a Federal bill to punish interference with the everyday enforcement of Federal rights.

We have heard many times during this debate that, because of its application to anyone, "whether or not acting under color of law," H.R. 2516 would harass and inhibit law enforcement officers in attempts to suppress riot activities or in everyday enforcement of local criminal laws. Nothing could be further from the truth.

Section 242 of the Federal criminal code is designed to cover the actions of those interfering with Federal rights under color of law, has proven to be a more usable, effective, and comprehensive tool than section 241, which proscribes private conspiracies. Although the new section 241 was intended to provide a basis for indictment of Federal law enforcement officers and common carriers to the scope of the substantive civil rights legislation we have enacted under the commerce clause. However, Congress is not
constitutively bound by the lines of coverage announced in the 1964 Civil Rights Act. These limits were based primarily on constitutional considerations relevant to that measure, and were not compelled by the Constitution. But if the enjoyment of the rights affirmed in these existing substantive laws is to be secured, we must be sure that all racial violence which is likely to inhibit such enjoyment will also be discouraged.

H.R. 2516 also would vindicate the right to the equal enjoyment of State facilities or programs, including, specifically, participation in purely State elections. In public education unassisted by the Federal Government, in employment by State and local agencies, and in State jury service.

There is no question that Congress has the power under the enabling clauses of the 14th and 15th amendments to punish criminal acts that would be justified by a desire to deny these rights. But perhaps most significantly, the measure before us would also reach purely private interference with the enjoyment of these 14th and 15th amendment rights. We have quoted many judicial statements which appear to question Congress ability to enter this area. In fact, however, many of these decisions have dealt with the unconstitutionality of a State statute or code which has been found to be directly the equal protection clause. These cases did not deal with the question of whether the enabling clauses of the 14th and 15th amendments grant Congress the power to legislate with respect to private interference with rights which the State must affirmatively grant.

I am convinced that we have the power to reach private acts of racial violence intended to interfere with the exercise of 14th amendment rights. We have already met much of the argument that a judgment in enacting the criminal provisions of the 1965 Voting Rights Act, under the enabliing clause of the 15th amendment. And six of the nine Justices of the Supreme Court, in the 16th case of United States against Guinn, have announced agreement with that judgment as applied to 14th amendment rights.

I have already met much of the argument that this bill violates the spirit of the equal protection clause. We have heard that cry of "reverse discrimination" before in our consideration of other civil rights statutes. Presumably opponents of such legislation believe that any bill which seeks to deal honestly and effectively with the problems created by centuries of persecution of Negroes—and thus explicitly mentions the word "race"—is somehow granting Negro citizens special privileges.

As I pointed out earlier, this claim is rarely based on a judgment with respect to criminal legislation, which grants no new rights at all, but is aimed at penalizing invasions of preexisting rights. And, looking for a moment at the whole spectrum of civil rights laws which have been, and, I hope, will be, enacted, we see only an attempt to counteract the effects of previous violations of our Nation's basic premise of the equality of all men before the law.

**COVERAGE AND PROOF**

It is strange that the opposition criticizes H.R. 2516 as an infringement upon State criminal jurisdiction, yet supports an amendment which would punish acts as to which no need for Federal inter­vention has been indicated. The commit­tee bill limits its coverage to violence motivated by issues of race, religion, or national origin—violence which prevents the full implementation of Fed­eral civil rights legislation and has often met no local sanctions.

Yet it is unlikely that a conviction could ever be obtained under this statute for actions which would not also be punishable by adequate State laws rigor­ously and even-handedly applied. Thus, the argument we have heard that innoc­ent persons would be harassed by Fed­eral prosecutions has no more applica­tion to this statute than to any other criminal legislation—than existing legislation or any suggested substitute. In conclusion, I wish to express my hope that H.R. 2516 will be promptly enacted.

Mr. HART. Mr. President, I now move to table the Ervin amendment, which is pending. On the motion, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD, Mr. President, I ask that the Chamber be cleared, in accord­ance with the recently adopted regula­tions. The doors are being blocked.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to table the amendment (No. 505) of the Senator from North Carolina [Mr. Envril]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, if I were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." The result was announced—yeas 54, nays 29, as follows:

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Mr. BYRD of West Virginia. I announce that the Senator from Alaska (Mr. BARTLETT), the Senator from Missis­sippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. KENNEDY), the Senator from Minnesota (Mr. McCaRTney), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from Con­necticut (Mr. RICORDI), and the Sena­tor from Georgia (Mr. Russell), are neces­sarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. BARTLETT), the Senator from Indiana (Mr. HARTKE), the Senator from Minne­sota (Mr. McCARTY), and the Senator from Utah (Mr. MOSS), would each vote "yea."

On this vote, the Senator from Con­necticut (Mr. RICORDI), is paired with the Senator from Mississippi (Mr. EAST­LAND). If present and voting, the Sena­tor from Connecticut would vote "yea" and the Senator from Mississippi would vote "nay."

On this vote, the Senator from New York (Mr. KENNEDY), is paired with the Senator from South Carolina (Mr. Hol­lins). If present and voting, the Sena­tor from New York would vote "yea" and the Senator from South Carolina would vote "nay."

On the vote, the Senator from Hawaii (Mr. INOUYE), is paired with the Senator from California (Mr. MURPHY). If present and voting, the Senator from Hawaii would vote "yea." The Senator from California would vote "nay."

Mr. DIRKSEN. I announce that the Senators from California (Mr. KUCHEL) and Minnesota (Mr. McCaRTTY), are necessarily absent.

The Senator from Tennessee (Mr. Baker) is detained on official business, and, if present and voting, would vote "yea."

The pair of the Senator from Cali­fornia (Mr. KUCHEL) has been previously announced.

On this vote, the Senator from Cali­fornia (Mr. MURPHY) is paired with the Senator from Hawaii (Mr. INOUYE). If present and voting, the Senator from California would vote "nay" and the Senator from Hawaii would vote "yea."

The result was announced—yeas 54, nays 29, as follows:
FAIR HOUSING

II

"TITLE II

"POLICY

"It is the policy of the United States to prevent discrimination on account of race, color, religion, or national origin in the purchase, sale, or rental of housing through the United States.

"DEFINITIONS

"Sec. 2. As used in this Act—

(a) 'Secretary' means the Secretary of Housing and Urban Development.

(b) 'Dwelling' means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families and any such building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families.

(c) 'Family' includes a single individual.

(d) To rent includes to lease, to sublet, to lease or to mortgage or grant for a consideration the right to occupy premises not owned by the occupant.

(e) 'Discrimination in the housing practice' means an act that is unlawful under section 4, 5, 6, or 7.

(f) 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

"EFFECTIVE DATES OF CERTAIN PROHIBITIONS

"Sec. 3. Except as exempted by section 6, the prohibitions against discrimination in the sale or rental of housing set forth in section 4 shall apply—

(a) Upon enactment of this Act, to—

(1) dwellings purchased or operated by the Federal Government;

(2) dwellings provided in whole or in part by loans insured, guaranteed or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962;

(3) dwellings provided in whole or in part by loans insured, guaranteed or otherwise secured by the credit of the Federal Government, under agreements entered into before November 20, 1962;

(4) dwellings provided by the development or the redevelopment of real property purchased, rented or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

"(b) After December 31, 1968, to—

(1) dwellings included within subsection (a);

(2) dwellings no parts of which are occupied by their owners as residences prior to the particular sales or rentals involved; and

(3) dwellings designed or intended for occupancy by, or occupied by, five or more families.

"(c) After December 31, 1969, to all dwellings.

"DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

"Sec. 4. As made applicable by section 3 and except as exempted by section 8, it shall be unlawful—

(a) To refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish any oral or written notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination because of race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To discriminate against any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or occupancy of any race, color, religion, or national origin of any person or persons of a particular race, color, religion, or national origin.

(f) Nothing in this section shall apply to—

(1) Dwellings included within subsection (a);

(2) Dwellings no parts of which are occupied by their owners as residences prior to the particular sales or rentals involved; and

(3) Dwellings designed or intended for occupancy by, or occupied by, five or more families.

"SEC. 5. After December 31, 1968, it shall be unlawful to—

(a) To refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish any oral or written notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination because of race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To discriminate against any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or occupancy of any race, color, religion, or national origin of any person or persons of a particular race, color, religion, or national origin.

(f) Nothing in this section shall apply to—

(1) Dwellings included within subsection (a);

(2) Dwellings no parts of which are occupied by their owners as residences prior to the particular sales or rentals involved; and

(3) Dwellings designed or intended for occupancy by, or occupied by, five or more families.

"SEC. 6. After December 31, 1968, it shall be unlawful to—

(a) To refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish any oral or written notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination because of race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To discriminate against any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or occupancy of any race, color, religion, or national origin of any person or persons of a particular race, color, religion, or national origin.

(f) Nothing in this section shall apply to—

(1) Dwellings included within subsection (a);

(2) Dwellings no parts of which are occupied by their owners as residences prior to the particular sales or rentals involved; and

(3) Dwellings designed or intended for occupancy by, or occupied by, five or more families.

"SEC. 7. It shall be unlawful to coerse, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having refused to exercise or enjoy, any right granted or protected by this Act.

"EXEMPTION

"Sec. 8. Nothing in this Act shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by an organization qualified as a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than religious purposes to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

"ADMINISTRATION

"Sec. 9. (a) The authority and responsibility for administering this Act shall be in the Department of Housing and Urban Development.

(b) The Department of Housing and Urban Development shall be provided an additional Assistant Secretary, The Department of Housing and Urban Development Act (Public Law 89-174, 79 Stat. 674) is hereby amended—

(1) striking the word 'four,' in section 4(a) of said Act (79 Stat. 668; 5 U.S.C. 624b (a)) and substituting therefor 'five,' and

(2) striking the word 'seven,' in section 4(a) of said Act (79 Stat. 669; 5 U.S.C. 624d (c)) and substituting therefor 'seven.'

(c) The Secretary may delegate any of his functions, duties, and powers to the employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this Act. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development.

"”
shall consult with State and local officials and other interested parties to learn the extent, nature, and location of discrimination that exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination. Consent is in lieu of or in addition to the Secretary's enforcement of this Act. The Secretary shall issue reports on such conferences and any subsequent proceedings. Consent to such housing practices by informal methods of conference (conciliation and persuasion. Note: a session or conference in which the informal methods of conference may be made public or used as evidence in a subsequent proceeding under this Act, without the written consent of the person aggrieved. The Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

"ENFORCEMENT" "Sec. 11. (a) The Secretary is empowered, as hereinafter provided, to prevent any person from engaging in any discriminatory housing practice which has been, is being, or is about to be engaged in. Any person aggrieved shall have the right to file a complaint with the Secretary. Within thirty days after receiving a charge the Secretary shall investigate it and give notice to both the complainant and the person alleged to be aggrieved. Whether he intends to do so, the Secretary shall make public any additional information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

"(d) At any time after a complaint is received, the Secretary may issue a temporary order restraining the respondent from engaging in any discriminatory housing practice which has been, is being, or is about to be engaged in. The order shall be issued against the person alleged to be engaging in such practice, and shall state the facts, upon which the allegation is based and the relief which it is desired to have obtained. The respondent shall answer in writing within ten days from the date of service of the complaint. If he fails to answer within the time specified, the Secretary may proceed to issue an order upon his default. The order shall be in such form as the Secretary requires.

"(e) The Secretary, if he finds that discriminatory housing practices have occurred or are about to occur, shall issue an order demanding the cessation of such practices and to take such affirmative action as will effectuate the policies of this Act. Such orders may take effect within thirty days from the time of receiving the complaint. If the respondent and the Secretary agree that the order is not necessary, they may file a statement to that effect with the Secretary. The order shall be in such form and subject to the same limitations as subpenas issued by the Secretary on any person, such as witness fees, mileage fees, and the like.

"(f) Hearings shall be held in such form as the Secretary may prescribe. The respondent shall have the right to be heard after a reasonable notice and an opportunity to be present. The Secretary may condition the issuance of such orders upon the payment of the costs of any proceedings. The respondent shall be entitled to receive a copy of the record of any such proceedings and to present evidence at such hearings.

"SEC. 12. (a) In conducting an investigation or other proceedings, the Secretary may take such action as he may deem necessary for the full and complete investigation. The Secretary may make such inquiries as he deems necessary for the full and complete investigation. The Secretary may also issue subpoenas. Each respondent shall be required to provide such information as may be pertinent to the investigation. Any person who willfully fails to answer, or who willfully fails to answer, or who wilfully refuses to answer any properly issued. Any person who shall fail to obey a subpoena may be fined not more than $500 or imprisoned not more than one year. Any person who shall, in any manner, obstruct any proceeding under this Act, shall be punished by a fine or imprisonment, or both, for each offense.

"INVESTIGATIONS; SUBPENAS; GIVING OF EVIDENCE"

"SEC. 12. (a) In conducting an investigation or other proceedings, the Secretary may take such action as he may deem necessary for the full and complete investigation. The Secretary may make such inquiries as he deems necessary for the full and complete investigation. The Secretary may also issue subpoenas. Each respondent shall be required to provide such information as may be pertinent to the investigation. Any person who willfully fails to answer, or who wilfully refuses to answer any properly issued. Any person who shall fail to obey a subpoena may be fined not more than $500 or imprisoned not more than one year. Any person who shall, in any manner, obstruct any proceeding under this Act, shall be punished by a fine or imprisonment, or both, for each offense.

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may issue such supplemental orders as he considers appropriate to encourage compliance with the Act. Supplemental orders could include an order to forfeit not more than $50 for each day during which the person found to have disobeyed an order continues to disobey it. Moneys obtained under such order shall be paid into the Treasury of the United States.

(b) At any time after he has issued an order the Secretary may petition a court for its enforcement. Within thirty days after the Secretary has given notice to all respondents andissuance of the decision, the last appeal to him which is available with respect to a final order issued under subsection (c) of section 11, or within five days after receipt by the Secretary of a supplemental order issued under subsection (d) of section 11 or a supplemental order issued under subsection (a) of this section, a respondent or person aggrieved may petition a court for review of any such order. The filing of a petition for enforcement or review shall not in itself operate to stay an order. Petitions for enforcement or review of final orders, other than final orders based on voluntary settlements, shall be to the United States district court for the district in which the discriminatory housing practice occurred or in which the respondent resides or transacts business. Petitions for enforcement or review of temporary orders or of supplemental orders issued under temporary orders shall be to the United States district court for the district in which the discriminatory housing practice occurred or in which the respondent resides or transacts business. Petitions for enforcement or review of temporary orders issued under subsection (d) of section 11 or of supplemental orders issued under temporary orders issued under subsection (a) of this section shall be to the United States district court for the district in which the discriminatory housing practice occurred or in which the respondent resides or transacts business.

(c) Promptly after he petition for enforcement or after he receives notice that a petition for review has been filed, the Secretary shall file in the court a copy of the original of the portions of the record which are material to the petition for enforcement or review. Upon the filing of a petition the court may, upon the petition or other proceedings in conformity with sections 701 to 706 of title 5 of the United States Code, cause notice of the filing of the petition to be served on the Secretary and on all persons aggrieved and shall thereupon have exclusive jurisdiction of the proceedings. It shall have power to grant such stays, temporary or permanent, and to make such orders as it deems proper, to affirm, modify, or set aside the findings or orders of the Secretary in whole or in part, or to remand the case to the Secretary for further proceedings. The findings of fact of the Secretary shall be conclusive if supported by substantial evidence. Questions of law are to be determined by the court and not by the Secretary or could not reasonably have been produced before him or was not available.

(3) The Attorney General shall conduct all litigation to which the Secretary is a party pursuant to this Act.

"EFFECT ON STATE LAWS"

"Sec. 15. Nothing in this Act shall be construed to affect any law of the State or political subdivision of a State, or of any other jurisdiction in which this Act shall be effective, that grants, guarantees, or protects any right or privilege which is granted or protected by this Act; but no law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this Act shall to that extent be invalid.

"COORDINATION WITH STATE AND LOCAL AGENCIES"

"Sec. 16. The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this Act. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State and local agencies, and such agreements may include provisions under which the Secretary shall refrain from issuing complaints in any class of cases specified in the agreements. The Secretary shall terminate any such agreement whenever he determines that it no longer serves the interest of effective enforcement of this Act. All agreements and terms thereof shall be published in the Federal Register.

"APPROPRIATIONS"

"Sec. 17. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

"SEPARABILITY OF PROVISIONS"

"Sec. 18. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and such provisions are not affected thereby.
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diately. Thus, as the previous rights became effective, they aggregated and after January 2, 1968, this provision will come into effect to protect persons in their exercise of them.

3. Does the Act go into effect only gradually?

Responsibility for enforcement of the Act will rest with the Department of Housing and Urban Development which already has the responsibility for enforcing the President's Order on Equal Opportunity in Housing. The Act cannot come into effect unless the first stage of enforcement with very little "tinkering up," because the first stage of coverage is identical to the coverage of the President's Order. The remaining stages of coverage are timed to coincide, roughly, with the time it will take the department to hire and train its new personnel and establish its operational procedures.

The delay will also permit the Department of Housing and Urban Development to carry on extensive consultation activities to acquaint the housing industry and the country generally with the provisions of the Act before it goes into effect.

4. What does the Act have?

There is an exemption to permit religious institutions or schools, etc., affiliated with them, to give preference in housing to persons of particular races, colors or national origin, or to discriminate against them, to give preference in housing to persons of particular races, colors or national origin, or to discriminate against them, if the exemption is used in good faith, in carrying on religious activities.

5. How will the Act be enforced?

Primary responsibility for enforcement is vested in the Department of Housing and Urban Development. It will establish local offices throughout the country for this purpose as needed. The Department will employ hearing examiners, who will be appointed and will serve in accordance with the Administrative Procedure Act.

The Department must always first try to settle a charge voluntarily, by conciliation and agreement. Only if that fails can it issue a complaint.

The Attorney General will also be empowered to enforce the Act, but only when a "reasonable period of time" has elapsed and no complaint has been made.

6. Will persons who disagree with the Department of Housing and Urban Development, or with the President's Order on Equal Opportunity in Housing, have recourse?

All orders of the Department will be subject to review by the Federal courts. In addition, any person who objects to the order will have thirty days to file a suit in any court of competent jurisdiction.

The Department must always first try to settle a charge voluntarily, by conciliation and agreement. Only if that fails can it issue a complaint.

7. What effect will the Act have on State or local fair housing laws?

None. It will leave them in effect. However, once the Act becomes fully effective, the Order will no longer be necessary, because the Act will cover everything it covers, and more. The President will then presumably rescind and replace the Order.

8. Does Congress have the constitutional power to prohibit discrimination in housing?

Yes. Supreme Court decisions clearly state that Congress has this power under the Fourteenth Amendment and the Commerce Clause. A summary of these decisions has been prepared and is available in the Record.

9. Will Congress grant "blockbusting"?

Yes, Section 4(e) prohibits blockbusting.

10. Will the Act make it a crime to discriminate?

No. All its enforcement provisions are civil in nature. An individual who disobeys the Act and refuses voluntarily to correct the housing discrimination will be subject to the Department of Urban Development (or, if necessary, by a court) to take appropriate action, but such orders cannot include fines, imprisonment, or any other criminal penalties.

11. Why does the Act cover religious as well as racial, color, and national-origin discrimination?

Although discrimination on religious grounds is not a major problem in housing, it nevertheless exists and is appropriately dealt with along with the other forms of discrimination.

12. Will the Act prevent religious discrimination?

No. Congress has no new power to force religious institutions to operate with them in joint operations. The Act does deal with this exception, too, by prohibiting "blockbusting"—the practice of frightening homeowners into selling at a low price by telling them that their neighbors will be of the new character or financial references, etc.

13. Will the Act prohibit "blockbusting"?

No. The burden of proof rests on the defendant. In all other respects, the Act simply extends the power of the Fair Housing Act lower property values?

No. Careful, well documented studies have shown that in the overwhelming majority of cases property values in unsegregated neighborhoods have been shown to be equal to property values in all-white neighborhoods. The only general exception is when panic selling occurs, and even then the drop is temporary. The Act deals with this exception, too, by prohibiting "blockbusting"—the practice of frightening homeowners into selling at a low price by telling them that their neighbors will be of a new character or financial references, etc.

14. Will the Act prohibit a person from refusing to sell or rent for any reason other than race, color, religion or national origin?

No. Other reasons for refusing would continue to be as valid as they are now. For example, property owners will continue to be free to refuse to sell or rent to people who cannot meet the price, who have bad credit ratings, who fail to provide adequate proof of character or financial or financial references, etc.

15. Will a person against whom a complaint of discrimination is issued have a chance to defend himself?

No. The National Commission on the Department of Housing and Urban Development, or the complaining person, to prove that the charging person did discriminate on the basis of race, color, religion or national origin.

16. Is a right to sue given to persons aggrieved by discriminatory acts?

No. The only right granted is the right to sue in Federal courts for damages to persons aggrieved by discriminatory acts. There is an exemption to permit religious institutions to provide religious benefits which a State could not, or cannot be, effectively enforced in ghettos. Federal subsidies for private housing bypass the ghetto and flow instead to the suburbs. The power of Congress to enforce the Act is therefore limited to achieving effective enforcement of the Equal Protection Clause. The power of a court to enjoin enforcement of the Equal Protection Clause itself, which speaks only of what States are forbidden to do. Hence, the courts can only forbid action by States (or their local subdivisions). But the power of Congress to enforce the Clause arises from Section 5 of the Fourteenth Amendment (quoted supra), which gives Congress legislative power, and legislative powers are exercisable in accordance with the Necessary and Proper Clause. That Clause grants Congress unlimited power. That power shall be necessary and proper for carrying into execution . . . all . . . Powers vested by this Constitution in the Government of the United States. . . . (The Constitution, Article I, Section 8, Clause 18.)

The scope of the Necessary and Proper Clause has been settled at least since Chief Justice Marshall decided the case of McCulloch v. Maryland, 4 Wheat. (316). It is amply broad enough to include laws affecting private conduct as well as laws forbidden by the Constitution. The Federal courts have held that Congress can pass laws for an end that is proper, even if it is not specifically mentioned in the Constitution, so long as the end is needed and important to achieve a larger good. For example, the Act makes it illegal to refuse to sell or rent to a person on the basis of race, color, religion or national origin.

17. How will the Act affect the sale or rental of dwellings?

The Act affects the sale or rental of dwellings only in the limited circumstances provided in the Act. For example, it would be illegal to refuse to sell or rent to a person because he is of a particular race, color, religion or national origin. The Act does not affect the sale or rental of dwellings unless the person is refused on the basis of race, color, religion or national origin.

18. How will the Act affect the availability of Federal housing assistance?

The Act effects the availability of Federal housing assistance to the extent that the availability of Federal funds is conditioned upon compliance with the Act. The Act does not affect the availability of Federal funds unless the person is refused on the basis of race, color, religion or national origin.

19. Does the Act provide for relocation assistance?

No. It is for Congress to provide for relocation assistance. The Act provides that the Act shall be necessary and proper for carrying into execution . . . all . . . Powers vested by this Constitution in the Government of the United States. . . . (The Constitution, Article I, Section 8, Clause 18.)

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20. How will the Act affect the availability of Federal housing assistance?

The Act affects the availability of Federal housing assistance only in the limited circumstances provided in the Act. For example, it would be illegal to refuse to sell or rent to a person because he is of a particular race, color, religion or national origin. The Act does not affect the availability of Federal funds unless the person is refused on the basis of race, color, religion or national origin.

21. How will the Act affect the availability of Federal housing assistance?

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ceives its financing from a state other than the one in which it is located."

"75 to 60 per cent of Levitt & Sons' ad-

vertising is done out of state."

"Out-of-state purchasers run from about

35 to 40 per cent, on the low side, to some

70 per cent, on the high side."

Discrimination in housing affects this com-
icence in several ways. The confinement of

Negroes and other minority groups to lower
 homic class areas results in their adopting
 new homes which are built and consequently
 reduces the amount of building materials and
 residential financing which moves across state
 lines. Negroes, especially those in the
 less efficient positions when housing discrimination would
 force them to move their families into
 ghettos. The result is both to reduce the
 interstate movement of Individuals and to
 MMClung,
 70 per cent, on the high side."

the interstate components of the economy.
The Commerce Clause grants Congress the
 power to protect interstate commerce from
 adverse effects such as these. Katesenbach
 v. McClung, 379 U.S. 294. Its power to do so is
 not restricted to goods actually in transit.

Wickard v. Filburn, 317 U.S. 111, 125 (1942)
 applied to a newspaper whose
 circulation of 9000 copies included only 45
 copies mailed to another state.)

Mr. MONDALE. Mr. President, we submit
 it as an amendment to H.R. 2516, the
 pending bill, to promote civil rights work-
 ers. The amendment is title IV of the
 Civil Rights Act. It would completely
 promine the principle of fair housing to the sale and
 rental of real estate in our country.

It is very clear at this point that this will be our only opportunity for Senate
 consideration of civil rights legislation
 in this session. It is also clear that there
 simply will not be time for the Senate
 Banking and Currency Committee to act
 on S. 1358, the proposed Fair Housing
 Act, so that it might be considered and
 acted upon during this debate.

Senator McCLELLAN. I have therefore
 prepared S. 1358 as an amendment to
 H.R. 2516, and offer it with but one
 change. We have included the so-called
 Mrs. Murphy amendment which was
 contained in the Civil Rights Act of
 1968, as passed by the House in 1966. This
 would exempt from coverage the sale or
 rental of owner-occupied dwellings of up
 to four units—approximately 2.3 million
 dwellings in our country. In doing so, we
 are not ignoring this Bill. In fact, the
 Banking Committee has not had executive
 sessions on the bill, but I am pleased to
 announce that a majority of the members
 of that committee support the
 proposal.

The Banking Committee sponsors of
 the amendment are myself, the Senator
 from Massachusetts [Mr. Brookins], the
 Senator from Wisconsin [Mr. Proxmire],
 the Senator from Maine [Mr. Muskie],
 the Senator from New Jersey [Mr. Win-
nard], the Senator from North Dakota [Mr.
 Long], the Senator from Wyoming [Mr.
 McGee], and the Senator from Illinois
 [Mr. Percy].

It is a clear majority of the mem-
 bership of the Banking and Currency
 Committee that joins in sponsoring a fair
 housing amendment.

Mr. SYMINGTON. Mr. President, I
 cannot hear the speaker.

The PRESIDING OFFICER. (Mr.
 Young of Ohio in the chair). Let there
 be order in the Senate.

Mr. MONDALE. Mr. President, we are
 most hopeful that the Senate will give
 careful and thorough consideration to this
 fair housing amendment, because in our
 judgment the case for it is compelling.

There is no doubt that national fair
 housing legislation is a controversial is-
 sue, but the grave urgency of the urban
crisis requires immediate congressional
 action. The barriers of housing discrimi-
nation and concentration of Negroes in
 ghettoes. The result is both to reduce the
 adverse effects such as these.

Is not solely to protect commerce.

Against Which Congress legislates may be
 minor or that, taken individually, they are
 insignificant. The constitutional basis Is
 taken as a whole, are present in measurable
 amounts. Wickard v. Filburn, 317 U.S. 111,
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Outlawing discrimination in the sale
 or rental of housing will not free those
 trapped in ghetto squalor, but it is an
 important step toward a better and
 less effective long-range solution of our
 urban crisis.

Forced ghetto housing, which amounts
 to failure every single program designed
 to relieve the fantastic pressures on our
 cities. No amount of education aid will
 repair the inherent weakness of segre-
gation, of ghettos, of ghettos as an
 facto. No amount of money spent on
 manpower training or jobs will eliminate
 ghetto unemployment when the jobs are
 moving to the suburbs. Declining tax
 base, poor sanitation, loss of jobs, inade-
 quate educational opportunity, and ur-
 ban squalor will persist as long as dis-
 crimination forces millions
 growing alienation of white and black
 Americas constantly at war with one an-
 other on any issue.

Whether there is any basic de-
 cency in white America and whether
 white America ever really intends to per-
 mit equality and full opportunity to
 black Americans, which achieve where
 he and his family will live.

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 or rental of housing will not free those
 trapped in ghetto squalor, but it is an
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 less effective long-range solution of our
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The Banking and Currency Com-
mee of the Senate, by its unanimous
 vote last year, and the Senate, by its
 overwheming support of this bill, have

It is our hope that we will be able to
 discuss this amendment fully and com-
 pletely, and after that time, proceed to
 a vote on its merits. In 1966, a majority
 of the Senate voted for cloture on a bill
 containing fair housing legislation, and
 we believe that a majority of the Sen-
 ate would approve this measure in a vote
 on its merits.

By the way, it is very clear at this point
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 McGee], and the Senator from Illinois
 [Mr. Percy].

Finally, there are two new and hopeful
 trends which are worthy of special
 attention. There is growing evidence of
 changing attitudes on the part of both
 Negroes and others. Twenty-two States have adopted fair
 housing laws, five of them during 1967. In
 addition, 84 cities, villages, and coun-
 ties, together with the District of Colum-
 bia, have adopted similar ordi-
nances. Forty-three of these were
 adopted during 1967. Most of these laws
 and ordinances have serious shortcomings
 in coverage and enforcement, and
 may even be tokenistic frauds; they are
 important in informing the Congress that
 local communities recognize the
 need and desirability of taking a stand
 on fair housing.

Constitutionality acceptance does not
 affect housing policies. The Department
 of Defense testified, in respect to its efforts
 to promote desegregated off-base hous-
ing, that the existence of a State law or
 local ordinance created a better climate
 for adaptation of the Department's
 policies and practices to local
 community and landlords in the
 community. With this important shift in
 public understanding of the issue, the Con-
 gress should proceed to pass an adequate,
 comprehensive, national law to provide
 equal coverage for all areas of the country.

Representatives of significant segments
 of the real estate industry indicated dur-
ing hearings last summer that the view-
 point of the fair housing advocates
 that many realtors no longer accept
 the myths about fair housing, and are
 arguing for a change in national policy.

They emphasized with equal vigor that
 fair housing legislation must be na-
 tional and uniform in coverage.

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February 6, 1968

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leaders of the clergy, and witnesses from every other walk of life, testified that the height of segregated housing patterns creates a sense of rage and frustration and a crisis which contributes enormously to the explosiveness of these communities. Some have said that fair housing is a formalistic ritual, traditionally carried out by civil rights leadership.

But one of the key issues established beyond doubt by the hearings to which I have referred is that fair housing is a key and indispensable part of any solution to the interacial problems of our country.

The record also established that property values do not in fact fall, as is the myth, when Negroes move into previously all-white neighborhoods. Almost every study confirms this fact. In fact, the very practice of blockbusting is based on the opposite theory—that prices in fact will rise.

The most well-known study was done by Mr. Luigi Laurenzit, in 1960, in which he found that during the past 10 years property values increased in all seven cities. The data showed that the entry of nonwhites into formerly all-white neighborhoods does not necessarily send real estate prices plunging downward. In 65 percent of the cases involved by the property values increased, and in only 15 percent did the prices decrease.

The next point of a fundamental nature that was clearly established in these hearings is that the old monopolistic opposition of the real estate industry to fair housing proposals has been broken, and we begin to see a change, a fundamental change, in the attitude of the real estate industry. Many responsible, substantial, and experienced realtors from across the country appeared to testify in the most urgent terms on behalf of a sweeping fair housing proposal. The testimony to which I have referred, which appears in the record, shows that the old old monopolistic and discriminatory forces to fair housing is no longer a fact. I would say that the more responsible leadership in the real estate industry now predominately favors a resolution of this dispute through fair housing legislation.

This certainly has been the experience in my own State, where initially the real estate industry opposed fair housing legislation; but now that they have experienced it, many now stand in its support, and most of the opposition has disappeared.

Third, the hearings destroyed the constitutional issue. In the period from the time fair housing was first introduced and the time when we will consider it in voting, the U.S. Supreme Court has issued many rulings which clearly demonstrated the desire of decent Americans for the solution of this problem. We see a growing number of communities have had them and have dealt with them for some years.

Those horror stories have been proved to be only nightmares, and, in fact, in every instance the fair housing ordinances have worked exceptionally well. Many communities that have fought bitterly over this measure have wondered, after the fact, what was the basis for all the consternation.

In addition, the committee of distinguished constitutional experts and lawyers, headed by the impressive Mr. Sol Rabin, of the Legal Committee of the National Commission Against Discrimination, has testified that this legislation was absolutely and unequivocally constitutional.

The law school deans also testified that the privacy or inviolability of personal property is a basic individual right, which has been more important than freedom of disfunction. And I lay particular stress upon this point.

We could explore the constitutional issues at great length, but the hearings to which I have referred amassed overwhelming and irresistible authority establishing without doubt the constitutionality of the amendment I have presented to the Senate.

The next point that the hearings established was that such legislation, while exceedingly important, is actually a fairly modest proposal.

Finally, the laws of economics will determine who can buy a house. All that legislation such as this would do would be to eliminate the discriminatory business practices which might prevent a person economically able to do so from purchasing a house regardless of his race.

The next point which the hearings established—I believe a very significant point—is that States which have fair housing laws have not experienced mass migration from Negro neighborhoods. Indeed, one of the standard arguments traditionally against fair housing, which we have heard from the real estate industry and from others, is a host of nightmares which they have conjured up, and tensions which would develop if housing were available without discrimination, and the horror stories that have been told to the American people about what would happen if fair housing laws were in fact adopted.

Mr. President, we have had an opportunity to test those theories. It is no longer a question of what might happen in the abstract. Several States have experienced what we have predicted, and while many communities have had them and have dealt with them for some years.

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In the present hearings established that this bill is an absolute and necessary part of any solution to the urban crisis. It is equally as important psychologically to the Negro, and will disarm some of the black racists.

One of the real issues that this Congress cannot avoid is the fact that the moderate civil rights leader in the ghetto is under siege. He is being attacked by the decent Negro, and will disarm some of the blacks.

Our friends in the ghetto who believe in due process—thankfully, they are by far in the majority—have not abandoned the cause that the American people have fully and fairly declared to be righteous. They are going to be frustrated and a crisis which contributes enormously to the explosiveness of these communities. Some have said that fair housing is a formalistic ritual, traditionally carried out by civil rights leadership.

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where there is integration there is generally good harmony and this underlines a point that is fundamental to a healthy America. There are going to be separate and apart; separately in white ghettos and Negro ghettos, if all we are going to know about each other is not who we are, what our abilities might be, what are our strong and weak points, then all we will ever learn about each other is what we see through caricature, through indirectness, through distance, and through lack of human understanding. In that case, I see little or no hope for a truly United States.

This issue is, again, not one of theory. It is one of fact. There are many, many integrated living areas in this country. The experience in them has been far more enriching and fulfilling than one might initially believe. There are none who wonder whether the understanding which this Nation needs and the people need of each other can be accomplished unless we decide we will live together and not separate.

The point is that this hearing established without any doubt is that housing discrimination has a serious effect on Negro employment and an adverse effect, because industries are increasingly locating in the South.

We have heard of the experience of the plant which Aero-Jet General established in Watts following that tragic riot. I think my figures are correct. They advertised for 75 employees to work in this plant and 5,500 residents applied for those 75 jobs. The truth is that more and more jobs are fleeing the rote core of American cities. They are, as Secretary Weaver pointed out, going "horizontal" into cheaper land areas of our suburbs. The Negro finds himself, not alone in substandard housing, but in a predicament where jobs he once held have left his area and are beyond his reach.

Secretary Robert Weaver testified regarding the effect of segregation on employment as follows: Between 1960 and 1965 from one-half to two-thirds of all new factories, stores, and other mercantile buildings in all sections of the country were located outside of the central cities of metropolitan areas. This indicates that expanding job opportunities are going to be in or near suburbia rather than in the core cities. Since 80 percent of the non-white population of the metropolitan areas in 1967 lives in central cities, the handicaps of nonwhite jobseekers are apparent. Unless they are going to be able to move in the suburban communities through the elimination of housing discrimination and the provision of low-cost and moderate-cost housing, they are going to be deprived of many jobs because they will be unable to live in the central city and work in the suburbs—simply because they cannot afford the high cost of transportation.

One of our witnesses testified to the relocation of one of these plants from a central city location to the suburbs. This Negro witness pointed out that his white fellow employees simply purchased housing near the new site, but that he was unable to do so because of discrimination in the sale of housing and

he had to commute many miles every day, a great disadvantage, to work in the plant that previously had been but a few blocks from his home. This experience is far from unique; unemployment is so much worse in the slum ghettos than in the country as a whole. The national unemployment rates are utterly irrelevant in considering the problems of minority workers. Any unemployment rate in terms of 3.7 or 4 percent completely ignores the slum. In the slum in contrast to the national unemployment rates, a few persons have a decent job, up to one-half are on the borderline, and the remainder are unemployed, and between 10 to 20 percent of those who should be working are not working at all. Thus, it is not an issue of jobs alone or an issue of housing alone.

The next point these hearings clearly establish is that housing discrimination has a serious adverse effect on education in the ghettos.

Rabbi Rudin testified that it is virtually impossible to provide high quality education to disadvantaged minorities as long as they are restricted to living in older congested sections of cities. The opportunity to go to school with members of other racial and ethnic and economic groups tends to improve the educational achievement of disadvantaged children, according to findings of educational research on the subject. Deco segregation in schools and education is directly traceable to the existing patterns of racially segregated housing. This National Association of Schools is a separate chapter which deals with the problem of the residents. In the long run the only way to attack segregated education is to attack the segregated neighborhood.

The U.S. Commission on Civil Rights has recently published a study entitled "Racial Isolation in the Public Schools." This report demonstrated that there is a relationship between the confinement of Negroes to central city ghettos and inferior educational opportunities. For this reason, since housing discrimination produces inequality of educational opportunity, the Commission recommended in that report a Federal fair housing law in order to minimize the impact of housing segregation on education.

Mr. President, in the 1967 report of the U.S. Commission on Civil Rights, there is a separate chapter which deals with heartbreaking conditions in education in the ghettos of our country.

As they put it: You just can't make it. They want in on the American dream that they see on their broken-down television screens in living rooms with the sofa that has half broken down.

Generations of Americans have escaped from the economic insecurity and meanness of ghetto life by bettering their economic circumstances, by obtaining for themselves or their children a good education, and moving outside the ghetto. For many reasons these avenues are closed to most Negroes.

One of the most significant barriers impeding progress and opportunity for Negroes is in the ghetto schools which are inadequate and which have not alone in substandard housing, but in a predicament where jobs he once held have left his area and are beyond his reach.

Negroes are less likely to finish public schools than whites and they are much more likely to attend segregated schools. In Cleveland, John Stafford, principal of the almost all-Negro Glenville High School, informed the Commission that almost 30 percent of his students dropped out of school between 10th grade and graduation.

As early as the third grade, the average Negro student is a year behind the average white student in verbal achievement. And by the 12th grade, the average Negro student is nearly three years behind the average white student. John Solar, Executive Director of the Harlem Neighborhood Association and a resident of Harlem, told the New York State Advisory Committee:

"[N]o one really isn't...necessary to say to a person, I am sorry, you can't have the job because you are Negro. What happens more frequently now is that they say, you can't have the job because you are not properly educated, you are not motivated, you are not prepared."

"This is quite defaming, because you see how this prejudice has operated for so long that now it's no longer necessary to say, I don't want you because you are a Negro, I don't want you because you are just not prepared, and it has been an educational system that has worked to create this condition."

Mr. President, recently I completed reading a new book, entitled "Death at an Early Age," the story of the experiences of one teacher trying to teach the culturally deprived, predominantly Negro students, in the ghettos of Boston.

I defy any American to read the experience of this young, committed, dedicated teacher who sees through the fears, the feelings, of the hopes, of the aspirations of these children in this Boston ghetto school, and stand up and say that we are dealing fairly with all Americans in our country.

At the heart of the educational problem is the deeply seated and growing pattern of racially segregated housing throughout the land.

The next point that the hearings demonstrated is that States and local laws, while experience has been generally good, just have not been in existence long enough to change the complexion of the ghetto. In failing to come to grips with the
problem of residential segregation and its attendant evils, Congress appears to be oblivious to what has been happening throughout the country. Forty-two of the 50 States, and 22 State legislatures, have adopted fair housing laws, five of them during 1967. The laws of four other States, Connecticut, Indiana, Massachusetts, and, I am proud to say, my own State of Minnesota, were amended this past year in order to strengthen them. Minnesota's law is now one of the strongest in the Nation and covers most of the housing market.

In addition to the States, 84 cities, villages, and towns, in the District of Columbia, have adopted fair housing ordinances. And for those of us who live in the Metropolitan Washington area and believe housing discrimination is a national disgrace, it has been a source of local pride to have Maryland this year become the first border State to adopt a fair housing law and both Montgomery County and Prince Georges County adopt separate ordinances that in no way conflict with one another.

It is some measure of the rate at which such laws are being passed that of the 84 local ordinances, 43 were adopted in 1967, the great majority since midsummer.

And even these figures are becoming outdated almost as I speak. For example, Detroit, Mich., adopted a fair housing law only last week. In Alexandria, Va., just across the Potomac River, the city council is establishing a new department to carry out a voluntary open housing policy. And within the past few days, open housing laws have been enacted in Louisville, Ky., by a newly elected Democratic council, which reversed the decision of the previous Republican-controlled council, and in Milwaukee, Wis., where a white Catholic priest, Father James Groppi, has led more than 100 marches demanding enactment of a strong open housing law.

Perhaps at this point some Members of this body will feel that if progress is being made in open housing, there is no need for Congress to act. I do not believe so. I believe that the various local and State efforts, far from absolving us from action, make it even more important than before that Congress enact a national fair housing law that will place all States and all localities under an equal standard.

The local and State open housing laws being enacted represent a hodgepodge of good and bad. Some are good laws, but most are ineffective at best, and a few are tokenistic frauds. Too many of them have glaring loopholes in coverage and totally inadequate enforcement. But it is the case that the demand for their mere adoption is an official recognition by the community that housing discrimination does in fact exist, that it is undesirable, and that laws are needed to eliminate it.

As the Milwaukee Journal noted in an editorial following approval of that city's move. It is a beginning.

And, Members of the Senate, it is time Congress made its beginning. This is a case where it is manifestly clear that, where there is a fight for open housing throughout this land, the Federal Congress in fact is one of the slowest institutions to respond to what is known concerning the need for this kind of opportunity.

There is no longer any economic, political, moral, or other justification for segregated housing. On this one issue alone, liberals and conservatives alike can be condemned, and we all know that justice is the question, and the personal interest demand that the Congress act.

As the chief author of the Federal fair housing bill, I have found nothing more frustrating than trying to make real progress on this issue—which for the first time in American history will afford the housing available in these areas to low-income housing. Even Negroes who can afford the housing available in these areas, have been excluded by discriminatory practices not only of property owners themselves, but also of real estate brokers, builders and the home finance industry. An important factor contributing to exclusion of Negroes from such areas, moreover, has been the policies and practices of agencies of government at all levels.

Owners and Realtors. Walter Sowell, a Negro who was Superintendent Engineer with the Cleveland Metropolitan Housing Authority, at the time that he "looked over the entire Cuyahoga County" for a home and a neighborhood within his means. He was told on the phone that "we would never put a Negro in a house or an area." Well, he was Negro, "but never face to face. . .there were a lot of excuses given...[The second call or third call, usually the house was sold or something happened]," Mr. Sowell transferred to another real estate company.

We had several witnesses before our subcommittee who were Negro, who testified that they had the financial ability to buy decent housing in all-white neighborhoods, but despite repeated good faith efforts, they were unable to get it. The pattern of frustration, the pattern of misleading statements, the lies and deceptions were found in each of their experiences. Never, or rarely, was race given as a reason, but always it was absolutely obvious that no other good reason could be given.

I cite to the Senate an example which shows this problem in its most extreme and outrageous and indefensible terms. It is the testimony of a Negro naval officer, a lieutenant in the U.S. Navy, at page 193, this testimony of Lt. Carlos Campbell is recited. I was chairing the subcommittee at the time he testified. He had come from an old, intelligent, magnificent example of the finest that American youth is contributing to the defense of our Nation. He has served this country for 8 years. He has gone wherever this Nation has asked him to go. He has polished himself to risk his life for the defense of this Nation. What have we done in exchange?

In March of 1966 he was ordered to report for duty with the Defense Intelligence Agency at Arlington, Va. The story he told as he tried time and time again to find decent housing, which he was able to pay for, within reasonable distance of the post to which he was assigned by the U.S. Government, is a story that could be found in only a few of the communities which should be a burden on the conscience of every decent American. Lieutenant Campbell went to over 39 separate homes, many of which had been turned down by the Department of Defense Housing Office as available on a non-segregated basis. Time and time again he
was met with excuses, lies, and deceit, and it was only through the intercession of a friend that he was finally able to find decent housing for his family.

I think it is deeply distressing to any American is an outrage, but the fact that it happened to someone whom we thought was good enough to defend our country, who had accepted the challenge to help defend this Nation, and who therefore we arrogantly would not permit to live amongst us only because of his color, is shameful.

We had another example, that of Gerard A. Ferere, professor of French and Latin at St. Joseph's College, Philadelphia. It was my privilege once again to be present when he testified. He was not merely bright, Mr. President; he was brilliant. He has had a remarkable and distinguished career in the academic field. He earns an income, as I recall, in excess of $11,000 a year; to be exact, $11,056. That would place him in the upper half of Americans in terms of income. He spent more than half a year trying to find housing in a nonsegregated community.

We could state figures, which are also available in this record, showing the growing number of Negroes economically capable of buying decent housing outside the ghettos, but the percentage who succeed is so infinitesimally small as to decisively pin down the point that there is a substantial market of financially able Negroes prevented from buying housing of their own because of entrenched patterns of discrimination in the sale and rental of housing in our country.

How insane can this policy be, when a lieutenant in the U.S. Navy, an attractive, decent, impressive young man, has to go to 39 different places—not because he wanted to live there, but because the Nation required him to serve at that base—only to find that while he was good enough to defend this Nation, he was not good enough to live with us?

How absurd can this policy be, when a distinguished professor in one of our great colleges in this country, financially able to buy decent housing, spends more than half a year trying to find one and cannot find one suitable alternative available to him in a nonsegregated community?

Those who are interested will find in this record detailed information on the growing capacity of Negroes to afford decent housing. How many of them today, how many thousand, how many millions of Negro Americans, are asking questions about the decency of our country when they have a capacity to break free from the ghettos, but the percentage who succeed is so infinitesimally small as to decisively pin down the point that there is a substantial market of financially able Negroes prevented from buying housing of their own because of entrenched patterns of discrimination in the sale and rental of housing in our country?

Is there any decent human being who can say that this is an answer to a problem?
I believe that fair housing is a difficult issue only if it is not explained. I believe in the decency of our country and our people, and I do not believe that if they are presented with this issue, there would be a rec­ounding and unquestioned decision in favor of decency and fairness.

We have heard the same argument in opposition to fair employment. We have heard the same argument in opposition to the Civil Rights Act of 1964. We have heard the same argument in opposition to the Public Accommodations Act.

Time and time and time again, we have been told these are unconstitutional, only to have the U.S. Supreme Court, by a narrow margin of votes, show its constitu­tionality. And the same will be true if we adopted fair housing.

Time and time again, we have been told it is politically impossible for this Nation to work its conscience and do what is right on this issue of humanity, only to find that where it has become a political issue, the American people almost invariably have decided the issue in favor of decency and humanity.

In Minnesota we have one of the strongest and largest fair housing laws in the country. I have yet to see one opponent of that measure be hurt politically because of his support.

This is an issue of decency. This is an issue in which men of good will, regardless of political party, will, when they understand it, rise to support those who have discharged their responsibility to their fellow men, to their religious prin­ciples, and to the concept that, in final analysis, the Negro is a child of God. That is the issue we have before us today. I hope we will act with responsibility, without emotion, and yet with proper human concern for the enormous rami­fications of the principle involved.

How do you tell someone who believes in this country, who happens to be black, who speaks up for moderation in our Nation, that a Congress can refuse to adopt such a measure and yet claim to be committed to the principle of living together? If the black charge in that case would be unanswered. Now is the time to do our duty.

Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from Minnesota will be stated.

The assistant legislative clerk pro­ceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. It has already been printed in the Record.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. President, in my presentation of the Senate version of this amendment, it is my sober judgment that the introduction of this amendment brings be­fore the Senate what must be considered, of all issues affecting civil rights, one of the most urgent matters of our day. In considering the proposed legislation, we will have to make decisions and pass laws that will be reflected in the future. When the Senate passed the Civil Rights Act of 1968, an area whose neglect by public authority has contributed more than most people realize to the strife and tension which so sorely try American society in our time.

Fair housing is not a political issue, except as we make it one by the nature of our debate. It is purely and simply a matter of equal justice for all Americans.

If we but look beyond the petty fears and often well-founded doubts which marred our national life, we would have no difficulty in seeing that legislation of this kind is clearly required by the ideals and principles on which this Nation has been built. Who among you would say that the construction of a decent home for every American should be abandoned to the ignoble dictates of prejudice and avarice? Yet, in effect, this is the practical result of the outdated customs which have persisted in many communities in this country.

Every argument of principle and prag­matism tells us that the time has come to take action to liberate all Americans from these unhappy practices. The issue is often posed in terms of a contest be­tween human rights and property rights. Even in those terms, I cannot believe that a majority of this body, nor a major­ity of all Americans, would cast their vote for the defeat of the American dream. If we have tried to hide from ourselves. We can recognize the matrimony tells us that the time has come to take action to liberate all Americans from these unhappy practices. The issue is often posed in terms of a contest be­tween human rights and property rights. Even in those terms, I cannot believe that a majority of this body, nor a major­ity of all Americans, would cast their vote for the defeat of the American dream.

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increased in 85 percent of the relevant cases. If there is any truth to this myth at all, it is rooted in the unequal access which Negroes have had to housing; this inequality has made possible the forced sale of homes on the one hand and blockbusting on the other. Where the entire housing stock is open to all Americans, it is wholly reasonable to expect a neutral impact on housing prices. To the contrary, we claim that the Government is already moving rapidly enough in this field. True enough, between 1950 and today the Federal Government has completely reversed its racial policy, moving from officially sanctioned housing discrimination to a Presidential order in 1962 nominally eliminating discrimination in federally assisted housing. Yet the effect of these moves has been minimal. In 1962 nearly 80 percent of federally subsidized housing remained occupied by one race, and today the Executive order covers only a fraction of the total housing stock. Secretary Weaver estimates that only 40 percent of the stock has been subject to the Executive order's rules. We are all familiar with the dreary cycle of the middle-class exodus to the suburbs and the rapid deterioration of the central city. I firmly believe that nothing is so essential to breaking this cycle as the effort to attempt to a fair housing legislation.

As the exodus has progressed, more and more jobs and businesses have followed the middle class to the suburbs. The tax base which had acquired a large measure of public education, subsists has fled the city, leaving poverty and despair as the general condition of the ghetto dwellers. We cannot immediately recreate adequate services in the central city, but we must move toward that goal. At the same time we can and should make it possible for those who can to move to where the better schools and services, the decent homes and jobs are most plentiful. That is the true purpose of this bill.

Fair housing legislation has been labeled "forced" housing. I believe that the true "forced" housing is exactly that situation in which the ghetto dwellers find themselves—trapped in the slums because they can go nowhere else. The States are concerned that the Federal Government is attempting a further usurpation of their power. But if the States are not inclined to follow the doctrine of the judgement on segregation, the Federal Government has the duty to insure that they can no longer ignore it.

Mr. President, finally, some are worried that this legislation will both invade their privacy and tamper with their right to do what they will please. On the contrary, this bill is aimed at privacy but at commercial transactions. It will prevent no one from selling his house to whomever he chooses so long as it is personal choice and not discrimination. The Federal Government has the duty to ensure that they can no longer ignore it.

Mr. President, Negroes in big cities usually pay rent just as high as most whites. Why? Because their incomes are less. Why? Because Negroes have paid median rents of $88, and proportions paying rents below that median were almost identical. However, units rented by nonwhites were typically smaller and in 1960 Negroes paid of all non-white units were in deteriorated or dilapidated areas as against 11.6 percent for whites. They contained more people.

The median household size was 3.53 for Negroes and 2.99 for whites. The figures prove conclusively that Negroes paid significant extra housing costs in 1960 as a result of racial discrimination against them by whites.

Second, the degree of racial segregation rose significantly in all parts of the country from 1940 to 1950, but declined slightly in all parts, except the South, from 1950 to 1980. The average segregation index value for all cities in 1940 was 87.3; in 1940; 87.3 in 1950, and 85.2 in 1960.

From 1950 to 1960, only 15.6 percent of all cities in the North and West experienced segregation index increases as compared to 29.8 percent for the South. This shift in the North and West was undoubtedly affected by the outlawing of racially restrictive covenants in 1948, plus the end of the general U.S. housing shortage in the mid-1950s.

Negroes were subjected to Federal nondiscrimination in areas where Negroes have had to housing; this is wholly reasonable to expect. The job that faces us is one that must be done.

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pitals and other community facilities are dollars that buy ghettos. Ditto for the billions given to central cities and suburbs in the name of community planning—money which made it simple for public officials to pretend that we were getting somewhere, and to plot the precise locations of Watts, Hough, Hunter's Point and ten-thousand other ghettos across the land.

At present the Federal example is murky; it has an Alice-in-Wonderland quality that defies easy summation. On the one hand, the Government is officially committed to fighting segregation by its own executive departments and others, it seems temporally committed to doing business as usual—which, given our current social climate, means more segregation. It has many more inter-group relations specialists—who has forty-seven—but deprives them of the power and prestige to achieve meaningful integration. Similarly, it is being asked, in many inter-office memoranda on current events, how to best promote open occupancy, but it fails to develop follow-up procedures tough enough to persuade bureaucrats to take these initiatives seriously. The Federal files are bulging with such memoranda—and our racial ghettos are expanding almost as quickly.

The problem is that with weak intentions—which is a reasonably accurate description of the Federal establishment today. Its sin is not bigotry (though there was some of that), but the fact that it is committed to segregation. In the summer of 1966 and the summer of 1967 our Nation witnessed its greatest shame. If we are to avoid a recurrence of this unsightly, unconscious, but deliberate thing between black and white Americans, it is incumbent upon our Government to act, and to act now. The most important action that we can take is to enable black Americans to live in decent housing in this country.

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The fears and myths I have spoken about have been aired time and again. Whenever there was a debate on open occupancy, whenever there was an attempt by the Federal Government to move against segregation and discrimination, these same myths, these same fears, have been argued in debate. Mr. MONDALE. Mr. President, will the Senator yield?

Mr. BROOKE. Yes; I yield to the Senator from Minnesota.

Mr. MONDALE. First, I would like to express my appreciation to the distinguished Senator from Massachusetts for his characteristic courage and strength of leadership on this issue. The Senator from Massachusetts maintained a very important study trip through Africa and flew several thousand miles to assist me as cosponsor of this measure and be ready this afternoon with his proposal. In addition to that, he prepared the most impressive remarks by which we hope to be guided.

In each of our comments, we emphasized many of the material aspects of this problem, whether it is the quality of housing or the quality of education, the availability of decent employment, the environment in terms of water, air, and transportation, law enforcement, playgrounds, and all the other aspects of a desirable community; but I wonder if perhaps more important than any of those is the psychological insult and the impact of that insult upon the ghetto dweller.

I asked these questions of Mr. Alger- non Black, who testified on behalf of the American Civil Liberties Union. The questions and answers appear on page 178 and 179 of the hearings. I think this is one of the most brilliant expositions of this aspect of the problem. I said to Mr. Black:

"I particularly like the sentence in your testimony that goes as follows: "Deeper than the material and physical deprivation is the humiliation and rejection and what this does to human beings."

This past Sunday in the New York Times a Negro sociologist talking about the impact of conditions of oppression on the mental outlook of the Negro male. It points out in effect we have given traditionally in the United States the Negro the option of risking his life, his freedom, his manhood.

And while that ancient option that was once true in the South is no longer as much true as it was, in the North we have this kind of response in housing and living conditions by which we crowd Negro America into the rotting cores of our central cities. And it is more subtle, but perhaps the cost is in terms of the impact that flows from the humiliation and the insult of segregation is an intolerable cost that perhaps is even greater.

This was his response. He said:

"I am a former chairman of the New York State Committee Against Discrimination in Housing, the first State committee of its kind to pioneer with State legislation and from which was born the National Committee Against Discrimination, whose representatives and officers you will hear this afternoon. I am chairman of its board of directors.

This is the point he made, which I thought was powerful and unanswerable. He said:

"I take real evil in the ghetto effects is the rejection and humiliation of human beings. As former chairman of the Police Complaint Review Board of New York City, I found that the humiliation of Negroes is the thing that police can do is not physical but psychological and spiritual, when they humiliate a man in the presence of his wife or his children. There is the most destructive thing to a man's soul—and the injury it does to a child's psyche—because the man, who was supposed to protect the family, to make the home, and is made to feel that he is nothing by one who represents the authority of society.

The sense of humiliation goes all through the ghetto. It is the primary cause of the frustration and rage in the youth which has acted with such violence in the recent riots. In the ghetto no matter what they do, what they become, they don't get anywhere. They feel they are in a cage. And this is why this bill is of crucial importance now.

I think that is one of the most remarkable and unanswerable arguments I have heard in the last two years. The immediacy of this measure. It is hard to quantify and make tangible psychological problem; and yet, when I go into the ghettos, as I have, and talk to ghetto residents, they are trying to figure out something different from the physical problem, although that is important, and I believe that Mr. Black expressed the result of the humiliation of segregation better than I have heard it expressed by anyone else.

Mr. BROOKE. I certainly concur in the statement of the distinguished Senator from Minnesota, and I am very grateful for his generous remarks. I assure him that I am deeply proud to be associated with him in the sponsorship of this important amendment.

I wholeheartedly agree with what Mr. Black said in testimony before the Senate committee. The psychological impact is a great impact. It is a profound one, but it is also the most subtle experience, having lived in the ghetto, what it does to the edges of a man to live in such shameful conditions, to be in an area which has been marked for secondclass citizens, in an area which few are able to escape.

Oh, I must confess that I was one of the lucky ones, that I did escape from the ghetto, that my parents were able
to educate me and we were able to move out into a better neighborhood. But there are millions of my brothers who have not been able to escape, who still live in ghettos, who still live in indecent housing, who still lack a quality education, who still are unemployed or underemployed. I know the psychological impact of which Mr. Black speaks.

This year, I have served on the President's Advisory Commission on Civil Disorder with the opportunity to go to Detroit, to Newark, to Roxbury, and to other places around the country, and to talk with people who live in the ghettos, who every day experience the shame and the ignominy, who find it impossible to move out of those areas of squalor, and who feel so strongly that they are being denied their rights. I have seen the impact upon them, and I know very well what they mean when they say, 'It is not just the fact that I am the last hired and the first fired; it is not even the bad conditions under which I am forced to live; but it is that I do not feel like a man, I am not accorded the rights to act, and to stand as a man, to live with human dignity. That is what is most important to me. I want to feel like a man. I want to act like a man. I want to live with dignity.'

Time after time, I have heard this testimony from the lips of those who lived in the very areas—the real areas—that have plagued our country with violence and bloodshed this year.

The other day, when a policeman approaches them, it is not so much that he makes an arrest, but that he treats them like dogs.

What they are really asking for is respect as individuals. They do not want to be denied it merely because their skin happens to be black.

This is what Mr. Black was talking about when he appeared before the Senator's committee. I think the material things are important and quite fine, but they are only secondary to that psychological lift that could be given to black America if it could only be given the opportunity to live where it pleased.

Mr. President, I yielded earlier that the statement of Dr. Black was the best on the subject I had ever seen. I have just heard a better one, on the psychological and spiritual aspects of this problem, from the lips of the distinguished Senator from Massachusetts.

I think his words should be engraved in gold and brought to the attention of every American. I think if they were, the response of Congress would be immediate and complete. We are on the right track.

One of the questions we faced during the hearings was the number of times and the number of sources which stated that that was not the case, that this is not only an important aspect of the solution, but an indispensable feature of any adequate solution.

I asked Mr. Wilkins—who, incidentally, I find most of the key leadership of any decent organization originated in that State: Mr. Wilkins, who was born there, Clarence Mitchell, who learned everything he knew about the Negro from Whitney Young, who would not have gained the respect that he has in his experience there; and the same is true, of many others—whether that was true.

Mr. BROOKE. Will the Senator yield, and say all those who were not born in Massachusetts?

Mr. MONDALE. I decline to yield to say that.

Mr. Wilkins' answer to that question, which appears at pages 119 and 120 of the record of the hearings, was as follows:

I might say as sort of a confession that while I have always believed that housing and employment and schools are the inseparable ties of Black America as such. As the ghetto living is concerned, I have been a little astonished to discover in recent years the tremendous feeling about housing, and even more so than unemployment. Ordinarily we would say unemployment is No. 1. I personally say schools are No. 1. But unemployment is only a subclass of education, and I think we have been so astonished by what they are really asking for is a psychological and spiritual lift that could be given to black America if that Federal facility—the largest perhaps that we have ever created to this time—he would have to commute on an average of 74 miles a day because he would have to come from the ghettos of Chicago.

Mr. BROOKE. The Senator is correct. That is one of the examples that we gave. I think it is a very flagrant and startling one, that we have other examples that would certainly point to the need—the very great need—to open up housing. Obviously any Negro that has to travel 74 miles a day cannot hold the job. He should not be denied housing, but he would also be denied employment by reason of that fact.

Where are the schools the worst? They are worst in the central cities where the Negroes are living today, and from which they cannot escape. So, we have education and employment affected by housing.

I would certainly place housing as the top priority, I think it is very important, because if Negroes are able to live where they want, then they will be able to get those jobs.

Again, in the last session of the Congress, we had legislation proposed for government incentives to be offered for the location of industry in areas where Negroes were living. If Negroes could live anywhere, we would not have to relocate industry all over the country. We are trying to keep Negroes living in segregated ghettos in the Nation, and the only thing we have to do is to destroy these ghettos.

That will not happen overnight. It will take time. However, I think, as the able Senator from Minnesota well set forth in
his opening statement, there will not be this great rush to the suburbs. There never has been. As people are educated and have more money and the wherewithal to move, they ought to be able to move. That is all that the amendment would provide.

Mr. MONDALE. Mr. President, I am glad that the Senator from Massachusetts has introduced this amendment. I included before an observation to the effect that all of the horror stories of the real estate lobby have proven to be untrue. They have not proven to be true in the state of Massachusetts and the reasonable and meaningful fair housing laws.

I speak from personal understanding because my State has one of the strongest fair housing statutes in the country. We have had it for some years. We strengthened it again in 1967.

One of the witnesses before our committee was Kennon Rothchild, one of the remarkable citizens from my State, president of the mortgage bankers of the State at the time he testified, and a former chairman of the State anti-discrimination commission against discrimination, and a common realtor in his own right. Mr. Rothchild pointed out what had happened in Minnesota when we passed the law.

If the real estate lobby, disasters and holocausts were shortly to be the standard diet for Minnesota, and we would have anarchy. In fact, all of these horror predictions proved to be totally false. The effect has been that real estate and not unexpectedly, without any fanfare, several hundred families have been permitted to move into those homes that they could afford.

There has not been a single instance of violence, virtually no instances of deep and serious community problems. It has worked out beautifully. And while it has not worked perfectly, it has been a definite, encouraging, exciting, and inspiring experiment.

It is hard to find a person in Minnesota who is opposed to fair housing. During the days when the real estate lobby was predicting what would happen, I would say that most Minnesotans were opposed to and fearful of what would happen.

I am reminded of an experience I had as a student when we were making a survey of a community in a wealthy part of South Minneapolis. One of the persons who lived there was a man who later became famous. He is a man by the name of Carl Rowan, a good friend of mine. A questionnaire had been prepared by the department of sociology. The first question asked, "Does that area have a Negro living in the community?"

The first housewife whom I asked the question said, "No. Is that true?"
The second question was, "Has it affected the real estate values?"

She said, "It certainly has."

And I think this shows the groundless fear and suspicion that we have.

This was the case of a Negro family that lived in a house because it could afford to do so because they had money, and because someone—and God—was not a segregationist. That family lived there with no difficulty whatever. Indeed, most of the people in the community did not know it. And the only time any of the citizens became concerned was when they learned about it long after the fact.

The fears simply were not realized. It is not a problem. It is something that we kept in the bag, and the fear was not a segregationist. We have to go on what is not true but caricatures, not friendship, but the fears of a people alienated from each other.

I believe what is so many American society who still harbor these fears which are so groundless.

Mr. BROOKE. Will the Senator yield?

Mr. MONDALE. I yield.

Mr. BROOKE. Mr. President, I am very proud that I come from a State that also has fair housing legislation. I certainly agree with my colleague, the Senator from Minnesota, that the fears that were voiced when this legislation was proposed were groundless.

People are now living in integrated cities and towns in the Commonwealth of Massachusetts.

Giving a personal reference again, I now live in an integrated district in Massachusetts, in Newton Centre. Many other Negroes live there as well. People of all kinds, of all classes, of all ages, all live together, without incident, and they do well. In Washington, I live in Tiber Island, which is integrated, again without incident.

It is difficult for me to comprehend how from Minnesota has stated, still persist so widely, when actually there has been more integration in housing the South than in the North. When one goes down South, he will find Negroes and whites living side by side to a greater extent, I believe, than he will find in the urban centers of the North. This has gone on for generations and generations, and whites have not moved out necessarily because there was a Negro living beside them. I believe that is just a myth. It is one of those myths that was dragged out to scare people about the problems they will encounter if there is integrated housing.

For a moment, let us explore the reversal of some of the opposition to the Negroes lived in all the cities of the Nation and all the whites lived in all the suburbs. That is the trend as it is presently going, because there has been great migration to the great urban centers of the North, particularly. But even in the South more Negroes have left the farms and have gone into the central cities of the South, and the whites have escaped and gone to suburbs in the South, as well as in the North. They are now living side by side to a greater extent, I believe, than the point of explosion, as they did in 1966 and 1967.

Do we want a nation in which all the blacks live in the city and all the whites live in the country? I do not believe we do. I do not believe it would be helpful to that for this Nation. I do not believe this Nation will exist with an urban black population and a suburban white population.

I believe that all we are saying in this amendment is that we are giving the opportunity for people to live where they want to live and where they can live. I believe it has well been pointed out that nothing is being forced upon anyone. A person can sell his property to anyone he chooses as it is a personal choice and not because of motivations of discrimination.

This is sound legislation. It is good legislation. What is more important, it is needed legislation. It is almost what I would call essential legislation. In fact, I will call it essential legislation.

I do not want to say what our Commission on Civil Disorders will report. We hope to report on or before March 1 of this year. We have been studying this very problem—among other problems, to be sure. The problem of housing certainly has been one of the great priorities in that Commission finding the causes for the explosions of 1966 and 1967, so that we can prevent them in the future.

So I am indeed very grateful to my colleague, the Senator from Minnesota, for his able presentation of the amendment and for the opportunity to work with him in the proposal of this essential legislation.

Mr. MONDALE. I thank the Senator from Massachusetts for his most useful and important contribution to this discussion.

I believe his experience on the Commission on Civil Disorders uniquely qualifies him to speak as an authority on the relationship between this measure and the problems with which that Commission deals.

Mr. President, I ask unanimous consent that the amendment which has previously been called up be considered as having been read for all purposes under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

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

Mr. MONDALE. I am glad to yield further to the Senator from Massachusetts.

Mr. BROOKE. As I have previously mentioned, Massachusetts has been a leader in fair housing. As attorney general of my native Commonwealth, this legislation is of special concern to me.

I recall that my distinguished colleague from Minnesota was also the attorney general of his great State. We served together, as he will recall, in committees of the attorneys general of the Nation.

I know that the fair housing principle has the strong support of my constituency, and I believe that most members of our society—usually want to do the right thing; they just need a good excuse to do it. I believe that that truth was never more relevant than in respect to fair housing. The Members of Congress must know what is the right thing to do in this field.

The excuse for action could there be than the imperative pressure to relieve the unbearable tensions in the ghetto, to make it possible for ghetto residents, by dint of their honest labor, to earn and acquire a better home for themselves and their families? What
higher purpose could any legislation serve than to restore the faith of all Americans in the possibility of realizing the constitutional promises of equal opportunity for all citizens?

That, Mr. President, is the purpose of this proposal. In my opinion, the Senate should not miss this precious opportunity to vindicate the aspirations of those who have, for so long, been denied a fair chance to acquire decent housing.

Mr. MONDALE, I thank the Senator from Massachusetts.

We have had similar experiences, having served as the chief lawyers of our respective States. Both of us have been active on this issue on the State level as well. I was pleased to be one of those who helped frame our fair housing law and to be active in that movement from the beginning, and to have been the law enforcement officer first vested with the responsibility of the enforcement of that measure. The belief I have always had in the elimination of discrimination has been strengthened by the experience.

Now, Mr. President, I am more persuaded that the objective is right, but also that it is achievable in a reasonable and responsible way. The experience of the Senator from Massachusetts is obviously similar, and I place in your hands the arguments and the statistics that I have mentioned that aspect of this part of the discussion.

STRIKE BY SEABOARD COAST LINE TRAINMEN

Mr. HOLLAND. Mr. President, I have been shocked to learn this afternoon that without any notice at all the operating company, is personally responsible for the elimination of discrimination.

Mr. President, another telegram is from Dade County, the county where Miami is located, which is very much to the point. That telegram is signed by the Dade County Growers Exchange, Inc., Princeton, Fla., and reads as follows:

PRINCETON, Fla., February 6, 1968.

HON. SPESSARD HOLLAND,
U.S. Senate,
Washington, D.C.

Mr. President, another telegram is from James S. Wood, Jr., Washington, D.C. It reads as follows:

Mr. President, a fourth telegram is from J. H. Williams, Jr., president of the Greater Tampa Chamber of Commerce.

Mr. President, this is the kind of thing which completely alienates the confidence and respect of great numbers of our people in the railroad unions.

I have called the White House. I am told that they are immediate considering the matter. The indirect delegation in a letter signed by all of us, is requesting the immediate action of the President in the appointment of a fact finding board and assistance in getting the line running again.

I am told that the workmen of nine lines take this position. I am not acquainted with the other lines involved.

I cannot say too forcefully that no action at this time is tantamount to admitting that the crisis arising out of the handling of perishable crops worth many millions of dollars and is a direct blow to the economy of my State, at least could be perhaps ruinous at this time to hundreds, and perhaps thousands of growers.

The Florida delegation as a whole requests President Johnson to take immediate action to resolve this emergency.

Mr. President, in view of some of the irresponsible activities by certain segments of the news media surrounding the riots which occurred last summer, and the sit-ins and protest marches which have taken place recently in various parts of the country, I would like to take this opportunity to call attention to the great TV station from my own State of Oklahoma—station KVOO-TV in Tulsa.

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TRIBUTE TO TV STATION KVOO-TV IN TULSA, OKLA.

Mr. MONROEY, Mr. President, in view of some of the irresponsible activities by certain segments of the news media surrounding the riots which occurred last summer, and the sit-ins and protest marches which have taken place recently in various parts of the country, I would like to take this opportunity to call attention to the great TV station from my own State of Oklahoma—station KVOO-TV in Tulsa.

Mr. Harold Stuart, president of Central Plains Enterprises, KVOO-TV's operating company, is personally responsible for law and order. He fully appreciates the responsibility that television has to report the news honestly and objectively, and at the same time his experience as an attorney and public servant provides him with a deep understanding of his responsibility for law and order.

Mr. Stuart tells me that he has discussed this problem with his colleagues in the television industry. He knows that his views carry great weight, because of Mr. Stuart's outstanding service to the Nation as Assistant Secretary of the Air Force from 1949 to 1951, his service on the Board of Visitors of the Air Force Academy, and his far-reaching activities in the fields of education, civic affairs of his community.

This policy problem is of growing significance to all television executives. My respect for Mr. Stuart's judgment in matters of serious public concern dates back to his early years as a common