The original documents are located in Box D6, folder "Ford Press Releases - Civil Rights, 1965-1970" of the Ford Congressional Papers: Press Secretary and Speech File at the Gerald R. Ford Presidential Library.

DECLARATION

for the

REPUBLICAN COORDINATING COMMITTEE

meeting at the Willard Hotel, Washington, D. C.

March 10, 1965

- -

PURPOSE

The Republican Coordinating Committee was created (1) to broaden the advisory base on national party policy; (2) to set up task forces to study and make recommendations for dealing with the problems that confront the people of our nation; and (3) to stimulate communication among the members of the party and others in developing a common approach to the nation's problems.

CIVIL RIGHTS

Recent denials to Negro citizens of their basic Constitutional right to vote have aroused the conscience of every American. In some areas these rights have been denied by force and fraud and we are outraged that in the year 1965 these conditions should exist.

For more than 100 years the Republican Party has fought to protect the rights of every minority group and we urge all citizens to join us in this cause. We urgently favor Federal action to assure all citizens of the United States of their Constitutional rights without discrimination on account of race or color.

The goal of the Republican Party is that by the 1966 elections every American citizen shall be assured of his Constitutional right to vote.

FOREIGN POLICY

Republicans, in their role as the loyal opposition, have consistently advocated, and now support, the Administration's announced policy in defending free South Vietnam against Communist aggression. We deplore the disruptive voices of appeasement in the Democratic Party which undercut the President in his conduct of foreign affairs, at a time of national crisis.

The President can always count on Republican support where the Administration's foreign policy is firm and decisive on the side of freedom. By the same token we owe a duty to the nation to point up those areas where the Administration's policy has failed and to offer constructive alternative proposals. Our Task Force on Foreign Policy shall have as one of its major objectives the examination of some of the most massive failures in foreign policy in recent American history -- the consolidation of the Communist beachhead in Cuba, the expansion of Communist influence and control in Africa and the Near East, the deterioration of the Atlantic Alliance.

America's voice in the world, once strong and clear, now with rare exceptions is mute, indecisive and inconsistent. It will be the Republican goal to fill this vacuum of international leadership not merely by criticizing what we believe is wrong, but by proposing those policies we believe are right.

TASK FORCES

The Republican Coordinating Committee today established the following task force assignments and requested the Republican National Chairman, Dean Burch, and his elected successor as of

April 1, Ray Bliss to appoint the members of the task forces after appropriate consultation with the members of the Coordinating Committee;

(1) On Human Rights and Responsibilities

(2) On the Conduct of Foreign Relations

(3) On the Functions of the Federal, State and Local Governments

(4) On Job Opportunities

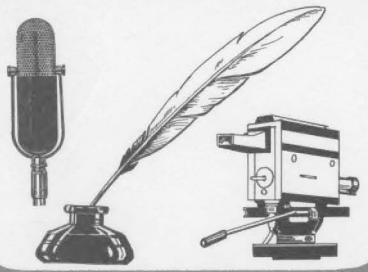
(5) On Federal Fiscal and Monetary Policies

Other task force assignments are still in the discussion stage and will be announced.

The Committee enthusiastically endorses the statement delivered by President Eisenhower as a guide line for future action. He has suggested basic problems and goals on which Republicans are agreed.

The next meeting of the Republican Coordinating Committee has been scheduled for June 1, 1965 in Washington, D. C.

# # # # # # # # # #



CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

NEWS RELEASE

FOR IMMEDIATE RELEASE
August 26, 1965

I am shocked by the impression given to the press by President Johnson that he warns of possible riots in Washington if the District of Columbia is not given the responsibility of home rule.

It should be emphasized that the merits of home rule for the District of Columbia are not involved. This issue should be resolved in a calm and deliberate atmosphere.

It is a tragic day for responsible civil rights champions and the entire Nation for the White House to possibly tempt those who might generate rioting and plundering.

By using the stark, sad and tragic memory of Los Angeles as a weapon, a pistol has been aimed at the head of Congress in an attempt to force Congress to abandon its responsibility to exercise its own judgment and independent will as a legislative body.

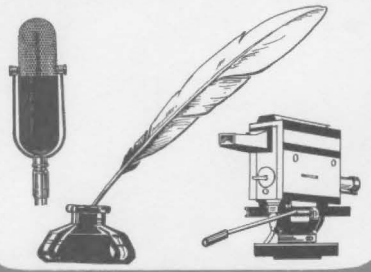
The lawless element, which flaunts the orderly processes of government with brazen disregard, has been given what amounts to an invitation to trigger terrorism in the streets.

Because of the tinderbox-like atmosphere the President should clarify his damaging statement immediately in the interest of maintaining law and order in Washington and elsewhere.

# # # #

STMT- CIVIL RTS
HOME RULE '65

Office Copy



CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

NEWS RELEASE

COMPLETE TEXT OF AN EXCHANGE OF TELEGRAMS
BETWEEN MR. CHARLES EVERS, MISSISSIPPI
FIELD DIRECTOR OF NAACP; AND
CONGRESSMAN GERALD R. FORD

FOR IMMEDIATE RELEASE
Nov. 6, 1965

"DEAR CONGRESSMAN:

"WE UNDERSTAND BY NEWS MEDIA THAT YOU WILL SPEAK FOR THE REPUBLICAN PARTY OF NATCHEZ ADAMS COUNTY MISS WHICH IS A TOTAL SEGREGATED PARTY THIS COMMITTEE IS MADE UP OF 12 THOUSAND WHITE 11 THOUSAND NEGROS WE URGE YOU TO EMPHASIZE TO THOSE WHO ARE RESPONSIBLE FOR YOU COMING HERE THAT WE THE NEGRO COMMUNITY WILL LIKE TO BE IN ATTENDANCE IF THEY WILL NOT ACCEPT THE ATTENDANCE OF NEGROS WE REQUEST THAT YOU CANCEL YOUR ENGAGEMENT"
(Signed) CHARLES EVERS MISS FIELD DIRECTOR NAACP

"Dear Mr. Evers:

"I have been informed by Republican officials sponsoring Nov. 15 luncheon meeting in Natchez, Miss., that tickets are available for purchase by anyone who is willing to pay regular charge. I assume anyone attending the luncheon is interested in building the two-party system in Mississippi through the Republican Party."

(Signed) Gerald R. Ford, M.C.

###

SMM - CIVIL RIGHTS
HOME RULE '66

Office Copy

House Republican Policy Committee
John J. Rhodes, Chairman
140 Cannon House Office Bldg.
Phone: 225-6168

Immediate Release

August 1, 1966

Republican Policy Committee Statement on Civil Rights Act of 1966

The Republican Party and the Republican Members of the House of Representatives have consistently led the fight for justice and progress in human rights. This is not a cause that we have discovered recently. This year, as in other years, we advocate and support legislation that will strengthen and advance the cause of civil rights under the law. For respect for law and order is basic to the achievement of common goals within our nation. Illegal breach of the peace, violence, and riot by the mob, weaken the nation and undermine the American goal of equal opportunity for all.

It is unfortunate that the controversy regarding title IV of the Civil Rights Act of 1966 has completely dominated public and Congressional attention. As a result, certain provisions in this Act that represent a solid advance in the field of civil rights have been downgraded and all but forgotten. For example:

Title I of this bill would update and reform the present federal jury system. At the present time, no uniform source of names of potential jurors is prescribed, and the selection process is largely left to local determination. Under this title, a uniform jury selection system would be assured and the rights of litigants protected. Thus, an even higher standard in federal jury selection to which all citizens may look with pride and confidence would be required.

Title II is designed to facilitate the elimination of all forms of unconstitutional discrimination in the selection of State court juries. It would authorize the Attorney General to initiate proceedings for preventive relief against State jury officials. In the event there is a finding of discrimination, the federal court would be authorized to grant various types of relief, including a decree which would suspend the use of State qualifications or standards. However, no State and no court which have maintained high standards will be required to change either its law or its rules for the selection of jurors by the provisions of this title.

Title V of the bill would require an assumption of federal responsibility that is long overdue. The need for a modern law to deter civil rights crimes has been demonstrated by the many and sometimes unbelievable instances of violence against certain of our citizens. Under this title, the full weight of federal law enforcement machinery can be brought to bear where the victim is engaged in a lawful civil rights activity. With federal prosecution stripped of the present necessity for proving specific intent to interfere with civil rights, and with a penalty structure that will allow punishment commensurate with the magnitude of the proven crime, title V, when enacted into law, will prove a powerful deterrent. Title V will not do violence to our Federal-State relationship in an area of federal law enforcement. It is designed to operate only where there is a failure or refusal or State justice in the courts. Hopefully, it will accomplish more through deterrence than actual application.

These proposals reaffirm this country's commitment to equal justice. These are areas in which a need has been identified and legislation to meet this need has been fashioned.

The House Republican Policy Committee, however, is opposed to the provisions of title IV. As proposed by the Administration, title IV was politically

(over)

motivated and unrealistic. Since its inception, it has created confusion and bitterness. It has divided the country and fostered discord and animosity when calmness and a unified approach to the civil rights problems are desperately needed. As amended and reported by the Committee, it is subject to widely-varying interpretations. It ignores the lessons learned through the administration of fair housing laws in many of our States.

Racial discrimination in any form is a social and moral wrong. However, a federal prohibition on discrimination in the sale or rental of an individual's home, or the rental of rooms therein, raises grave and far-reaching questions. As Associate Justice Harlan of the United States Supreme Court has stated: "Freedom of the individual to choose his associates or his neighbors, to use and dispose of his property as he sees fit, to be arbitrary, capricious, even unjust in his personal relations are things entitled to a large measure of protection from governmental interference. This liberty would be overridden, in the name of equality, if the strictures of the [fourteenth] amendment were applied to governmental and private action without distinction."

It has been alleged that the Fair Housing Board created by section 408 is merely a mechanism for conciliation. However, a closer reading reveals that title IV gives both the Department of Housing and Urban Development and the FHB powers comparable to, and in at least one respect greater than those of the National Labor Relations Board. Thus, the enactment of this title may create another super agency larger and more powerful than the NLRB to investigate the thousands of complaints that are bound to arise under this bill.

Although civil actions by individuals under title IV are subject to a six-month statute of limitations, actions by the Attorney General and by the Secretary of HUD and the Fair Housing Board do not have this limitation. Thus, under this provision, there would be at least a six-month cloud over many sales and rentals. Certainly, the time within which such suits must be filed should be as limited as possible. If discrimination is practiced, a meaningful remedy cannot be fashioned unless the action alleging such discrimination is filed before a bona fide sale or rental is consummated. Stale claims and continuing potential liability will not discourage discrimination but they may encourage nuisance suits and legal harassment.

Title IV would establish broad Federal authority over private housing. It could supersede local and State authority and take away local and State jurisdiction in this area. This title, in effect, sets aside local and State law and invokes a maze of Federal procedures to remedy discriminatory housing practices. Fair housing solutions must be developed and carried out locally. Federal legislation in this area should encourage and promote appropriate fair housing programs at the community level. The Civil Rights Acts of 1964 and 1965 affirmatively encouraged State and local action. This bill would reverse this important and forward-looking policy.

House Republican Policy Committee
John J. Rhodes, Chairman
140 Cannon House Office Bldg.
Phone: 225-6168

Immediate Release

August 1, 1966

Republican Policy Committee Statement on Civil Rights Act of 1966

The Republican Party and the Republican Members of the House of Representatives have consistently led the fight for justice and progress in human rights. This is not a cause that we have discovered recently. This year, as in other years, we advocate and support legislation that will strengthen and advance the cause of civil rights under the law. For respect for law and order is basic to the achievement of common goals within our nation. Illegal breach of the peace, violence, and riot by the mob, weaken the nation and undermine the American goal of equal opportunity for all.

It is unfortunate that the controversy regarding title IV of the Civil Rights Act of 1966 has completely dominated public and Congressional attention. As a result, certain provisions in this Act that represent a solid advance in the field of civil rights have been downgraded and all but forgotten. For example:

Title I of this bill would update and reform the present federal jury system. At the present time, no uniform source of names of potential jurors is prescribed, and the selection process is largely left to local determination. Under this title, a uniform jury selection system would be assured and the rights of litigants protected. Thus, an even higher standard in federal jury selection to which all citizens may look with pride and confidence would be required.

Title II is designed to facilitate the elimination of all forms of unconstitutional discrimination in the selection of State court juries. It would authorize the Attorney General to initiate proceedings for preventive relief against State jury officials. In the event there is a finding of discrimination, the federal court would be authorized to grant various types of relief, including a decree which would suspend the use of State qualifications or standards. However, no State and no court which have maintained high standards will be required to change either its law or its rules for the selection of jurors by the provisions of this title.

Title V of the bill would require an assumption of federal responsibility that is long overdue. The need for a modern law to deter civil rights crimes has been demonstrated by the many and sometimes unbelievable instances of violence against certain of our citizens. Under this title, the full weight of federal law enforcement machinery can be brought to bear where the victim is engaged in a lawful civil rights activity. With federal prosecution stripped of the present necessity for proving specific intent to interfere with civil rights, and with a penalty structure that will allow punishment commensurate with the magnitude of the proven crime, title V, when enacted into law, will prove a powerful deterrent. Title V will not do violence to our Federal-State relationship in an area of federal law enforcement. It is designed to operate only where there is a failure or refusal or State justice in the courts. Hopefully, it will accomplish more through deterrence than actual application.

These proposals reaffirm this country's commitment to equal justice. These are areas in which a need has been identified and legislation to meet this need has been fashioned.

The House Republican Policy Committee, however, is opposed to the provisions of title IV. As proposed by the Administration, title IV was politically

(over)

motivated and unrealistic. Since its inception, it has created confusion and bitterness. It has divided the country and fostered discord and animosity when calmness and a unified approach to the civil rights problems are desperately needed. As amended and reported by the Committee, it is subject to widely-varying interpretations. It ignores the lessons learned through the administration of fair housing laws in many of our States.

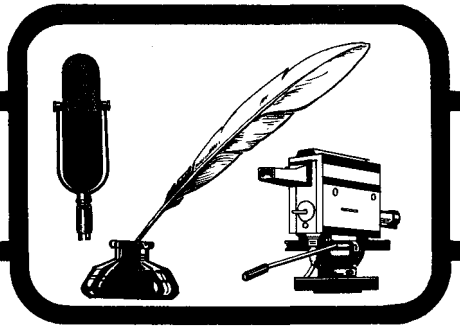
Racial discrimination in any form is a social and moral wrong. However, a federal prohibition on discrimination in the sale or rental of an individual's home, or the rental of rooms therein, raises grave and far-reaching questions. As Associate Justice Harlan of the United States Supreme Court has stated: "Freedom of the individual to choose his associates or his neighbors, to use and dispose of his property as he sees fit, to be arbitrary, capricious, even unjust in his personal relations are things entitled to a large measure of protection from governmental interference. This liberty would be overridden, in the name of equality, if the strictures of the [fourteenth] amendment were applied to governmental and private action without distinction."

It has been alleged that the Fair Housing Board created by section 408 is merely a mechanism for conciliation. However, a closer reading reveals that title IV gives both the Department of Housing and Urban Development and the FHB powers comparable to, and in at least one respect greater than those of the National Labor Relations Board. Thus, the enactment of this title may create another super agency larger and more powerful than the NLRB to investigate the thousands of complaints that are bound to arise under this bill.

Although civil actions by individuals under title IV are subject to a six-month statute of limitations, actions by the Attorney General and by the Secretary of HUD and the Fair Housing Board do not have this limitation. Thus, under this provision, there would be at least a six-month cloud over many sales and rentals. Certainly, the time within which such suits must be filed should be as limited as possible. If discrimination is practiced, a meaningful remedy cannot be fashioned unless the action alleging such discrimination is filed before a bona fide sale or rental is consummated. Stale claims and continuing potential liability will not discourage discrimination but they may encourage nuisance suits and legal harassment.

Title IV would establish broad Federal authority over private housing. It could supersede local and State authority and take away local and State jurisdiction in this area. This title, in effect, sets aside local and State law and invokes a maze of Federal procedures to remedy discriminatory housing practices. Fair housing solutions must be developed and carried out locally. Federal legislation in this area should encourage and promote appropriate fair housing programs at the community level. The Civil Rights Acts of 1964 and 1965 affirmatively encouraged State and local action. This bill would reverse this important and forward-looking policy.

Office Copy



CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

NEWS RELEASE

FOR IMMEDIATE RELEASE--JUNE 7, 1966

STATEMENT BY HOUSE MINORITY LEADER GERALD R. FORD, R-MICHIGAN ON MEREDITH SHOOTING.

All decent, law-abiding Americans, including the overwhelming majority of citizens in the South, must deplore this reprehensible attack. The most serious aspect of the wounding of James Meredith is that there still obviously prevails among a few in this country the belief that crimes by one race against another will go unpunished. This idea must be erased from the minds of the advocates of violence if America is ever to make good on the promises in its Bill of Rights and its Constitution.

The only way to confound the law breaker who turns to violence in the belief he can get away with it is to make sure he is dealt an appropriate penalty provided by law. If justice cannot be obtained under existing circumstances, then the Meredith case will become still another persuasive argument for federal legislation.

Early in 1966 a number of Republicans, including Congressman Charles McC. Mathias, Jr. (R-Md.), sponsored legislation which would be applicable in these circumstances. The Congress should hold public hearings on the Mathias proposal and consider such legislation immediately.

# # #

CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

NEWS RELEASE

FOR IMMEDIATE RELEASE
TUESDAY, JULY 19, 1966

STATEMENT BY HOUSE MINORITY LEADER GERALD R. FORD, R-MICHIGAN.

According to this morning's Washington POST, the Vice President of the United States went into one of our largest Southern cities last night, while major outbreaks of lawlessness were deeply scarring several other of our big cities, and expressed what seemed to be sympathy for mob disregard of law and order.

May I quote from the article, datelined New Orleans, July 18, in this morning's Washington POST:

> "Vice President Hubert Humphrey said today that if he had to live in a city ghetto with rats nibbling on his children's toes, he might 'lead a mighty good revolt' himself.
>
> "Addressing the National Association of Counties conference here, he called for a national drive to wipe out slum housing.
>
> "Without rent supplements or rent subsidies for the poor, he said, 'We will have open violence in every major city and county in America...'
>
> "'I'd hate to be stuck on a fourth floor of a tenement with rats nibbling on the kids' toes--and they do--with garbage uncollected--and it is--with the streets filthy, with no swimming pools, with little or no recreation.'
>
> "Humphrey told the county officials that if he were forced to live under such conditions, 'I think you'd have more trouble than you have had already, because I've got enough spark left in me to lead a mighty good revolt under those conditions.'"

Every member of the House deplores slum conditions, and every member--regardless of party--deplores riot, revolt and rebellion. I sincerely hope that this almost incredibly irresponsible statement by the Second Highest Official in our nation, the man who stands one heartbeat from the White House, was incorrectly reported by the Washington POST.

If not, I sincerely hope that President Johnson, who I understand is holding a news conference tomorrow, will repudiate such inflammatory statements by his Vice President before more tragic damage is done.

The golden virtue of silence would be helpful in this crisis. The Vice President's verbal spark is well known. I hope this latest spark, which did not shed much light, will not ignite conflagrations which even he cannot blow out. This is not time for incitement to riot from any source, and certainly not from the Vice-President of the United States.

# # #

STMT 1966 - CIVIL RTS

REPUBLICAN NATIONAL COMMITTEE
1625 EYE STREET, NORTHWEST, WASHINGTON, D. C. 20006 NATIONAL 8-6800

NEWS

FOR RELEASE
TUESDAY PM's
March 29, 1966

STATEMENT ON FHA SCANDALS ISSUED BY THE REPUBLICAN COORDINATING COMMITTEE AT ITS MEETING IN WASHINGTON, D.C. ON MARCH 28, 1966

The government's official watch-dog agency--the General Accounting Office--has frequently detailed a record of bankruptcies and mortgage insurance losses in the Federal Housing Administration. Senator John J. Williams (R-Del.) has also called attention to these, the latest in a series of Johnson-Humphrey Administration scandals. An article in the April, 1966, issue of The Reader's Digest entitled "The Stench at FHA," points out that "nearly one out of every ten FHA apartment or multi-family projects across the country now has gone bankrupt." And, the article goes on to say that "At the end of the last fiscal year FHA was saddled with 575 of these failures which had cost it $536 million. It was also still stuck with 46,261 homes which cost $520 million."

We deplore the laxness which again appears to be besetting a Democratic Administration. We deplore the fact that prominent Democrats appear to be playing major roles in the use of FHA mortgages for windfall profits. We deplore the fact that political cronies of the Johnson-Humphrey Administration have once more turned FHA into an agency to fatten personal profits through raids on the Treasury of the United States. We deplore the fact that Democratic Congresses have chosen to ignore eleven reports submitted by the General Accounting Office pointing out the rot in FHA since President Johnson took office.

MORE

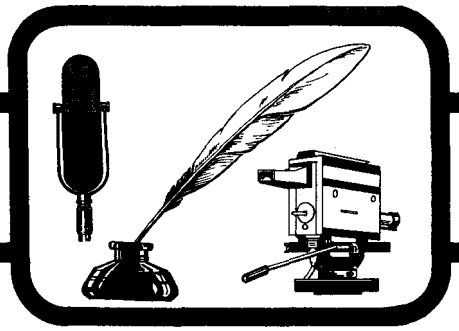
The Johnson-Humphrey Administration now demands a rent subsidy program that may ultimately cost as much as 6 billion dollars. It is proposed that this rent subsidy program be managed by FHA. These multi-million dollar scandals already have led to the resignation of one high official. They hardly justify the launching of a new easy-money program under such clouded circumstances.

To a great extent, the problems in FHA are the product of the law which permits the agency to utilize ever-increasing sums without returning to Congress for annual appropriations.

Once before, during the Truman Administration, the nation was shocked with scandals in FHA. Now again history seems to repeat itself.

We urge that Congress act. We urge that a full and complete investigation by the Congressional committees concerned begin immediately to bring out the full story. Our citizens and taxpayers are entitled to no less.

-30-



CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

NEWS RELEASE

FOR IMMEDIATE RELEASE, MAY 5, 1966

STATEMENT BY HOUSE REPUBLICAN LEADER GERALD R. FORD, R-MICHIGAN

I am confident that the House will uphold the recommendation of its Committee on Appropriations and defeat the Rent Subsidy Appropriation when it comes to the Floor next week.

"The cat is out of the bag." Secretary Weaver this week reaffirmed his intention to make rent subsidies available to middle income families, those with incomes from $6,000 to $11,000 annually, just as Republicans have been warning for the past year.

The American people simply are not in favor of the Federal government paying an unlimited percentage of the rent for middle income families, and never will be.

# # #

Republican National Committee
1625 EYE STREET, NORTHWEST, WASHINGTON, D. C. 20006 NATIONAL 8-6800

NEWS

FOR RELEASE

FRIDAY AM'S
JULY 15, 1966

HOUSING AND URBAN DEVELOPMENT

The Republican Coordinating Committee today detailed a constructive program to meet the housing and urban development needs of the Nation's more than 200 metropolitan areas.

The report was adopted by the Coordinating Committee at its June 27 meeting in Washington. It was released today by GOP National Chairman Ray C. Bliss. The paper is one of a series of documents adopted by the Coordinating Committee. It was released today as a companion paper to a study on metropolitan problems issued yesterday.

Housing and Urban Development was prepared for the Coordinating Committee by the Task Force on the Functions of Federal, State, and Local Governments, chaired by former Congressman Robert Taft, Jr. of Ohio.

The paper stated that past solutions to metropolitan problems have often "left out of the equation...the vital human factor. All too frequently we have ignored the problems of people."

Calling attention to the "remarkable effort by private enterprise" which has supplied the "great bulk of our housing needs," the paper also noted the reluctance of private firms "to enter the lower income housing field." The paper urged that ways must be found to make such efforts profitable, and therefore called for greater research efforts by Federal and State governments into the development

of low-cost building materials.

Pointing to the "widespread existence of inflexible or obsolete local building codes," the Republicans said that "a generation of studies on a model building code should suffice." The GOP group urged top priority efforts to develop such a code to be adopted by local communities. The Republican paper also "commended the example set by those States which have created commissions to foster the development and adoption of model codes."

The report also advocated modernized Federal or local tax policy "to encourage, rather than penalize, the owner for improving his property."

Pointing to the activities of the Federal Housing Administration, the high-level Republican group criticized the Administration for being unable "to make up its mind whether FHA is a salesman of loan guarantees or a social worker."

"FHA's handling of...welfare programs has done an injustice both to its basic mission to encourage private housing construction and also to the social welfare programs superimposed on that basic mission,"the document charged. This contradiction, it was noted, has resulted in the "deplorable relaxation of standards for approvals in FHA's basic housing insurance programs" which have been "pointed out by the General Accounting Office in a series of reports to Congress which have been ignored." An immediate Congressional investigation was demanded by the Republican statement, as also was a divorce of FHA housing insurance programs from "its social experimentation functions."

Greater use was urged of present structures stressing rehabilitation and use, and the paper called for utilization "of the Republican-sponsored program of short-term leasing of existing housing, voluntarily offered by private landlords at public housing rental levels." Also encouraged were programs to make ownership of housing units available to persons who "show the initiative to move above public housing" levels.

The GOP document urged a strengthened urban renewal program which would not merely relocate slums and create "new blight in other sections." Criticism was leveled at programs which create "residential re-use out of the price range of those displaced." The paper also noted that "fully a third of small businesses forced out of urban renewal areas have gone out of business."

The Republicans called for a four-point program to revamp urban renewal:

--By increased use of rehabilitation and code enforcement to diminish the need for massive new buildings and clearances;

--By better techniques to solve the relocation problem;

--By a re-emphasis on residential renewal to limit the use of Federal funds on the commercial aspects of redevelopment; and

--By speeding up project completions and ending costly delays.

The document called for a Congressional study of the urban renewal and slum clearance programs, and advocated greater State efforts to "encourage regional and local planning and coordination."

# # #

Adopted by
The Republican Coordinating Committee
June 27, 1966

Presented by
The Task Force on the Functions of
Federal, State and Local Governments

HOUSING AND URBAN DEVELOPMENT

Prepared under the direction of:
Republican National Committee
1625 Eye Street, N. W.
Washington, D. C. 20006

REPUBLICAN COORDINATING COMMITTEE

Presiding Officer: Chairman, Republican National Committee

Former President

Dwight D. Eisenhower

Former Presidential Nominees

Barry Goldwater (1964)
Richard M. Nixon (1960)
Thomas E. Dewey (1944 & 1948)
Alf M. Landon (1936)

Senate Leadership

Everett M. Dirksen
Minority Leader

Thomas H. Kuchel
Minority Whip

Bourke B. Hickenlooper
Republican Policy Committee

Leverett Saltonstall, Chairman
Republican Conference

Thruston B. Morton, Chairman
National Republican Senatorial
Committee

House Leadership

Gerald R. Ford
Minority Leader

Leslie C. Arends
Minority Whip

Melvin R. Laird, Chairman
Republican Conference

John J. Rhodes, Chairman
Republican Policy Committee

H. Allen Smith, Ranking Member
of Rules Committee

Bob Wilson, Chairman
National Republican Congressional
Committee

Charles E. Goodell, Chairman
Planning and Research
Committee

Representatives of Republican Governors Association

John A. Love, Governor
of the State of Colorado

Robert E. Smylie, Governor
of the State of Idaho

George W. Romney, Governor
of the State of Michigan

Nelson A. Rockefeller, Governor
of the State of New York

William W. Scranton, Governor
of the Commonwealth of Pennsylvania

Republican National Committee

Ray C. Bliss, Chairman

Mrs. C. Wayland Brooks,
Assistant Chairman

Mrs. Collis P. Moore
Vice Chairman

Donald R. Ross, Vice Chairman

Mrs. J. Willard Marriott
Vice Chairman

J. Drake Edens, Jr.
Vice Chairman

Republican State Legislators Association

F. F. (Monte) Montgomery

Robert L. L. McCormick, Staff Coordinator

Members of the Republican Coordinating Committee's Task Force on the Functions of Federal, State and Local Governments

Robert Taft, Jr., Chairman
Member of Congress from Ohio, 1963-65
Karl Mundt, Vice Chairman
United States Senator from South Dakota
Mrs. Consuelo Northrop Bailey
Secretary of the Republican National Committee
Henry Bellmon
Governor of the State of Oklahoma
George C. S. Benson
President, Claremont Men's College
Neal Blaisdell
Mayor of the City of Honolulu
Joseph L. Budd
Republican National Committeeman for Wyoming
Howard H. Callaway
Member of Congress from Georgia
Frank Carlson
United States Senator from Kansas
Roger Cloud
Auditor of the State of Ohio
William Cowger
Mayor of the City of Louisville, 1962-65
Walter DeVries
Executive Assistant to the Governor of the State of Michigan
Daniel J. Evans
Governor of the State of Washington
Denison Kitchel
Attorney, Phoenix, Arizona
Warren P. Knowles
Governor of the State of Wisconsin
Mrs. Jewel S. LaFontant
Attorney, Chicago, Illinois
Edwin G. Michaelian
County Executive, Westchester County, New York
Winthrop Rockefeller
Republican National Committeeman for Arkansas
Craig Truax
Chairman of the Republican State Committee of Pennsylvania
Charles E. Wittenmeyer
Republican National Committeeman for Iowa
Robert J. Huckshorn
Secretary to the Task Force

HOUSING AND URBAN DEVELOPMENT

As the Nation's population becomes more concentrated in metropolitan areas, the problems of urban and suburban living have taken on new importance.

In the past, individual efforts by our private enterprises, citizens, and local public bodies have combined to provide continuing improvements in the urban standard of living. While Republicans believe that efforts of these elements in our society will continue to play the primary roles in the further upgrading of metropolitan areas, the rising demands of our urban population will require more energetic statesmanship by both State and Federal governments.

Problems facing urban America and the inadequacies of previous efforts to find solutions to these problems have a common root: in the past, the challenge has been viewed as one concerning physical and environmental changes alone. Left out of the equation, too often, has been the vital human factor. All too frequently, we have ignored the problems of people, as for example the difficulties involved in relocation.

Nowhere is this more true than in providing adequate housing and a suitable living environment for our urban citizens. Without pretending to catalog all possible problem areas, we offer here valid criticisms and reasonable suggestions in response to these needs.

Emphasizing the Role of Private Enterprise

Private enterprise always has supplied the great bulk of our housing needs. This remarkable effort by private enterprise and local initiative should not merely be noted, but encouraged most actively by citizens and their governments. The accomplishments performed by private firms in housing nearly

200 million Americans are a tribute to the American free enterprise system. Let us hope that future efforts will not be shackled by inflation.

In particular, Americans should encourage the actions taken by private sources to eliminate racial and religious barriers.

Private enterprise in recent years, however, has been increasingly hesitant to enter the lower income housing field. While the efforts of non-profit groups and public bodies have contributed to meeting the needs of these citizens, it should also be possible to encourage private enterprise to a greater effort. We should seek ways to make such efforts profitable. For example, one basic problem is the cost of building materials.

This problem of expensive building materials is aggravated by the lack of research into low-cost or desirable materials. Given the nature of the building and real estate industry, large commitments to research are sometimes difficult to obtain. Yet, private industry can solve such problems. Plumbing is a classic American example of private achievement in housing; more recent accomplishments have occurred in flat glass, aluminum, plastic and other materials -- in all of which private research played a key role.

The Federal and State governments should, therefore, make a far more energetic effort to encourage all types of private research in this field, directed at improving lower income housing. Where necessary, grants should be provided for basic research into the development of low cost materials and methods of new construction and rehabilitation.

Another major problem in conquering the costs of housing materials and construction is the widespread existence of inflexible or obsolete local building codes. Even where information and research is available, it is often unprofitable or impossible, for private enterprise to use it under the present building code situation.

A generation of studies on a model building code should suffice. We believe that the private building industry and the trade unions should give top priority to efforts to develop such a code which should be adopted by local communities. We also commend the example set by those States which have created building code commissions to foster the development and adoption of model codes.

On the other hand, we oppose any attempt by the National Government to impose, through the influence of its programs, any specific code standards on local communities. Nevertheless, the Department of Housing and Urban Development can play a positive role in seeking new ways to make low income housing an attractive field for private industry. Through successful Republican efforts to amend the Housing and Urban Development Act of 1965, the new Department has the responsibility to act as an information-gathering center concerning both the use and content of building codes.

Modernizing Tax Policy as it Affects Slum Housing

As the result of a Republican amendment to the Housing and Urban Development Act of 1965, the Department of Housing and Urban Development has been instructed to study and report to Congress on the effect of tax policy of housing supply.

We believe that this study should be useful in determining the means by which Federal or local tax policy can be used to encourage, rather than penalize, the owner for improving his property. Such encouragement could be based on a tax credit or tax abatement approach, using as a guide the cost of the improvement or the local property tax increase. Certainly, all levels of government should study their tax laws to eliminate factors which encourage the maintenance and spread of profitable slums.

Restating the Role of the Federal Housing Administration

One good indicator of the strength and resourcefulness of the housing and housing-finance industries can be found in the fact that the demand for FHA-insured mortgages has been decreasing. Between 1961 and 1965 , FHA's share of the mortgage market dropped from 19 percent to 16 percent. Nonetheless, the Federal Housing Administration, even in the new Department of Housing and Urban Development, will continue to play an important role.

One major difficulty is that the Administration cannot seem to make up its mind whether FHA is a salesman of loan guarantees or a social worker.

The Federal Housing Administration was originally designed in 1938 to help undergird economically sound private housing. In more recent years, however, it has been given the added responsibility of operating programs of a social welfare nature. These include FHA jurisdiction over such higher risk programs as rehabilitation loans, loan insurance, and moderate income housing mortgage insurance. FHA will also administer the rent supplement program.

FHA's handling of these welfare programs has done an injustice both to its basic mission to encourage private housing construction and also to the social welfare programs superimposed on that basic mission.

This contradiction in purpose between economics and social welfare has resulted in a deplorable relaxation of standards for approvals in FHA's basic housing insurance programs. These weaknesses were pointed out by the General Accounting Office in a series of reports to Congress which have been ignored. These reported defaults constitute a serious danger to the insurance fund which has been built up by the payments of individual home owners. We call upon Congress to institute an immediate investigation of this deplorable situation.

To compound the confusion, FHA has also shown a reluctance to act on behalf of its own welfare programs. These bureaucratic delays have created hardships for many lower income citizens.

FHA should be divorced of all its social experimentation functions. Such a separation of programs of social experimentation from the basic FHA mission will free them from present delays, and at the same time allow Congress the opportunity to judge these programs on their own merits. Confidence in FHA's operations could then be restored and encouragement of a viable housing industry assured by restricting FHA to its proper function as an insurance instrumentality for an economically sound private housing.

Placing Greater Emphasis on Rehabilitation and Use of Existing Structures

One tendency in both the Federal urban renewal and public housing programs has been to demolish existing structures and build anew. The costs of such an approach, both in human and economic terms, have often outweighed any benefits gained. At the same time, we have been ignoring one of our greatest resources in the housing field: existing buildings with a potential for rehabilitation or renovation.

Where public housing has been accepted by local decision, local public housing officials should be encouraged to make use of the Republican-sponsored program of short term leasing of existing housing, voluntarily offered by private landlords at public housing rental levels. This will not only supply additional housing units faster than any other way, but the costs to the taxpayer will be much lower through the elimination of expensive government construction and maintenance. Thus, the community will also gain by keeping the property steadily on the local tax rolls. It will also be a move away from the ghetto aspect of public housing.

Tenants of low-income housing projects should be encouraged to make an individual effort to improve their positions. We believe that opportunities for acquiring ownership of units must be enhanced. Persons who show the initiative to move above the public housing level are often faced with inadequate housing supply and landlord antipathy or indifference. Nevertheless, they should be encouraged. Temporary lease guarantees, backed by local, State or Federal government sources, could be explored. This approach is far more in keeping with traditional American concepts of home ownership than is any housing subsidy program.

Strengthening the Urban Renewal Program

The Federal urban renewal program was undertaken in the belief that Federal assistance was necessary to supplement local and private efforts to provide a decent home and suitable living environment for every American. Its objective was to erase slums and other aspects of urban blight.

Despite the commitment of $5.5 billion, the surface of the need has been barely scratched, and many of the Federal efforts recently undertaken have been in the wrong direction. An over-emphasis of residential re-use out of the price-range of those displaced has actually aggravated the housing shortage for low income and minority groups. Dislocated businesses have been frequently forced to the wall by the lack of adequate provision for new locations and new markets; fully a third of small establishments forced out of urban renewal areas have gone out of business.

In city after city, urban renewal has merely relocated slums and created new blight in other sections of the urban area.

We believe that the following principles will cause a re-direction of the urban renewal program:

(a) By increased use of rehabilitation and code enforcement to diminish the need for massive new building and clearances. Massive clearance projects very often invite high income re-use. Instead, much greater attention should be given to renovation of housing which is, or could be made, structurally sound. Strict code enforcement procedures are necessary to this type of a successful urban renewal program. Residents of new and renovated low income housing should be offered training in the proper use of space and equipment provided by such housing. Incentives and sanctions should be applied strongly and fairly at the local level to bring substandard housing up to par. These restored units must be available to their low-income tenants at a price they can afford. A coordinated approach to housing should realize that there is social benefit in retaining the neighborhood -- which may be the only social institution with meaning and value for the low income urban family.

(b) By better techniques to solve the relocation problem. Where relocation is necessary, it should involve the total resources of the community. Adequate checks must be made on the availability of new housing and new business locations prior to displacement. Too often, families and businesses are forced to relocate in areas as bad or worse as the one they left, with higher rent costs as well. Needed are more adequate payments of moving expenses, and more equitable compensation awards and procedures where property is taken under eminent domain.

(c) By a re-emphasis on residential renewal to limit the use of Federal funds on the commercial aspects of redevelopment. Given limited governmental budget resources, family housing needs certainly deserve a higher priority than commercial redevelopment. At present, however, some 35 percent of the Federal

funds go to commercial, non-residential projects. Even in residential projects, almost half of the re-use may be for commercial purposes. Congress should require that top priority be given to residential projects in areas where housing needs remain unmet. Emphasis should be given to increasing the supply of housing within the reach of lower income families.

In addition, Congress should consider revamping the commercial renewal program. The Federal Government's share of the costs should be repaid by the community, at least in part, from increased tax revenues where these result from the property improvement.

(d) By speeding up project completions and ending costly delays. When it takes an average of ten years to complete an urban renewal project, the residents face long delays in relocation, land lies vacant, and property deteriorates in value within the area. This not only costs our cities badly needed tax revenue and new housing, but has also discouraged private interests from participating to the degree expected.

What Republicans Have Contributed to Urban Renewal

As a result of Republican contributions to the last two major housing bills, improvements have been made in the program. These include:

(1) small business lease guarantees,

(2) an emphasis on rehabilitation as against clearance or bulldozer projects,

(3) encouragement of stricter local code enforcement efforts,

(4) low cost rehabilitation loans,

(5) more adequate relocation procedures,

(6) additional low-income housing opportunities, and

(7) more equitable compensation awards and procedures.

Unfortunately, the reluctance of the appropriate officials to put these programs to full use immediately has dampened their effectiveness. A new attitude is required on the part of those administering the urban renewal program itself.

Although $5.5 billion has been committed over the past seventeen years, no detailed or careful study of the operations of the Federal urban renewal and slum clearance programs has ever been undertaken by Congress. Such a study should include in-depth hearings involving the people directly affected by the program. It is urgently needed and long overdue.

Improving Planning for the Future

Local officials and private developers have evidenced an increasing awareness of the need to develop and utilize a coordinated approach to community development. The assistance provided by the Federal Government in the forms of planning grants or advances should be continued, but it should be clearly understood that local elected officials, the persons responsive to the electorate, are responsible for the decision to plan, and for the content of such plans. Groups such as Chambers of Commerce, labor unions, and other civic associations should take an active role in all such planning; the mere fact that so many dues-paying members do not live in the core city area ought never to dampen this basic civil responsibility.

State governments should encourage regional and local planning and coordination. In highly urbanized States, departments of local government or urban affairs within the State government can be focal points for housing and urban renewal programs. These agencies can assist local and Federal programs, particularly in the rehabilitation field.

The quality of housing affects more than the physical appearance of our communities. It has a very real impact on the human environment as well.

* * *

U. S. HOUSE OF REPRESENTATIVES **REPUBLICAN POLICY** COMMITTEE

REP. JOHN J. RHODES, (R.-ARIZ.) CHAIRMAN • 1616 LONGWORTH HOUSE OFFICE BUILDING • TELEPHONE 225-6168

10

91st Congress
Second Session

June 23, 1970
Statement Number 8

HOUSE REPUBLICAN POLICY COMMITTEE STATEMENT ON H.R. 17495, THE EMERGENCY HOME FINANCE ACT OF 1970

"Economic incentives will be developed to attract private industry and capital to the low-cost housing market."

Republican Platform, 1968

The House Republican Policy Committee supports the passage of H.R. 17495, the Emergency Home Finance Act of 1970.

Twenty million Americans today live in substandard housing. To overcome the existing backlog and meet the Nation's ever-expanding housing need, twenty-six million units must be constructed in this decade.

Since 1950, when 1.9 million units were constructed, a continuing decline in housing production, an outflow of funds from savings institutions supporting the housing market, and a drying up of traditional mortgage sources have brought about a housing crisis which threatens our national well-being.

Curbing inflation is basic to the easing of the critically tight money market and is of the highest national priority. The housing industry, however, is bearing a disproportionate burden of the inflationary pressures as well as the anti-inflation measures instituted to restore price stability. To direct the flow of additional funds into the home mortgage market and overcome this most pressing restraint on housing construction, specific action by the Congress is required.

(over)

H.R. 17495 will stimulate private investment in mortgages, providing needed assistance to home buyers, without undermining Republican efforts to control inflation. The Act:

1) authorizes $250 million to be used by the Federal Home Loan Bank Board to reduce interest rates charged by Federal home loan banks to member associations, thus promoting the orderly flow of funds into residential financing.

2) expands the purchase authority of the Federal National Mortgage Association to include conventional mortgages, in addition to the federally underwritten mortgages it now purchases and sells.

3) authorizes the establishment of a Federal Home Loan Mortgage Corporation, a secondary market facility to purchase residential mortgages.

4) increases the authority of the Government National Mortgage Association in the amount of $1.5 billion, to provide additional special assistance for low-income housing.

5) extends the authority of the Secretary of Housing and Urban Development and the Administrator of the Veterans' Administration to set maximum interest rates on FHA and VA loans to meet mortgage market conditions.

Enactment of these provisions will effectively stimulate the flow of funds into the mortgage market.

The bill, as originally proposed, provided for the establishment of a National Development Bank, the main source of funds for which would be an annual

(more)

compulsory assessment of up to 2.5% of the assets of pension funds and private foundations. The proposal is of doubtful constitutionality and is but a thinly veiled attack in a continuing battle against a major segment of the Nation's financial structure. The provision, which was opposed by the Nixon Administration, was wisely deleted by the Banking and Currency Committee. Their action in striking the provision, Title V of the bill, is strongly supported.

Title VII of H.R. 17495 authorizes the Federal Reserve to permit commercial banks to invest portions of their cash reserves in agency securities issued to finance residential real estate. Such authority, an extraordinary precedent strongly opposed by the Board of Governors of the Federal Reserve System, could well jeopardize the liquidity of commercial banks and lead to directed investment of their assets. The deletion of the authority, contained in Title VII of the bill, is urged.

Thus amended, the enactment of H.R. 17495, the Emergency Home Finance Act of 1970, will contribute substantially to curbing rampant inflation in housing costs. The House Republican Policy Committee urges its passage.

Office Copy

MINORITY STAFF
JUDICIARY COMMITTEE

SECOND EDITION
MARCH 30, 1968

MEMORANDUM ON H. R. 2516

This memorandum contains a more complete analysis of H. R. 2516 (as passed by the Senate on March 11, 1968) than that provided by minority staff in the first memorandum of March 13, 1968. As in the first memorandum, the Senate substitute is compared to relevant House-passed bills, H. R. 2516 and H. R. 421 of the 90th Congress and H. R. 14765 of the 89th Congress. However, unlike the first memorandum, this provides an analysis of Titles II through VII of the Senate substitute which treat with Indian rights.

TITLE I INTERFERENCE WITH FEDERALLY PROTECTED ACTIVITIES

Title I of the Senate version embraces the areas covered both in H. R. 2516 and H. R. 421, as they passed the House in 1967. It should be noted that Republican members of the Judiciary Committee expressed the view in the Committee reports on both of these House bills that the two bills actually reflected two sides of one problem, and that they therefore should be joined together. The Senate has taken the suggested approach.

The first half of Title I is similar to the House version of H. R. 2516. However, there are several differences. Both the House version and the Senate version make it a crime for anyone, whether or not acting under the color of law, by force or threat of force, to injure, intimidate or interfere with any person because he is or has been participating in specified federally protected activities. However, the Senate version requires that such injury be done "willfully," whereas the House version requires that it be done only "knowingly."

The Senate version divides the enumerated activities into two categories: the first might be called that of greater federal interest; and the second, that of lesser federal interest. But only as to the second category of activities does the Senate version purportedly require that racial motivation (a shorthand term for "because of his race, color, religion or national origin") be proved as an element of the offense. The House version does not divide the enumerated activities into two categories, and requires that racial motivation be proved as to all cases. The Senate version does not mimic the House version in describing the substance of the protected activities. There are thus subtle differences in the two versions.

After considerable debate in the House, it was agreed that "attempts to interfere" with a person's federally protected rights were simply too tenuous a basis for prosecution. The Senate version does not agree. However, neither did the House version consistently take that position throughout the entire bill. Compare Sec. 245 (a) with Sec. 245 (b), 245 (c) and 245 (d).

The House version forbids discrimination on the basis of "political affiliation" in the enumerated areas, whereas the Senate version does not.

After some discussion, the House, in the Committee of the Whole, narrowly defeated (90-90) an amendment to protect businessmen during riots. However, such protection is extended to such people by Sec. 245 (b) (3) of the Senate version.

Sec. 245 (b) (4) (A) of the Senate version, which forbids interference with one "participating without discrimination on account of race, color, religion or national origin in any of the benefits or activities" enumerated, presents a serious problem. If the section is designed to proscribe acts of terrorism against minority groups, it may be superfluous (and certainly confusing) in view of the intimidation clause that was added by the Senate at subsection 1 of the Sec. 245 (b). The House bill requires a separate acts-of-terror section, 245 (b) (on page 3 of the House version), because it does not have an intimidation clause comparable to that in Sec. 245 (b) (1) of the Senate version. If, on the other hand, it is not designed to proscribe acts of terrorism, but applies rather to civil rights workers (see Cong. Rec., March 7, 1968, page S 2352), it is likewise superfluous and confusing.

It should be noted that the language of the House version is far more clear. The principal sections were not rewritten on the floor. Thus the House version avoids awkward phraseology like that in proposed section 245 (b) (1): "whoever, whether or not acting under color of law, by force or threat of force willfully. . .intimidates. . .any person. . .in order to intimidate such person or any other person or any class of persons from" participating in the activities described. Proposed section 245 (b)(4)(A) repeats this language verbatim except that it adds the qualification that the victim must be participating "without discrimination on account of race," etc. Is that a distinction without a difference? Probably so.

Proposed section 245 (b) (2) requires racial motivation as an element of the offenses concerning activities of lesser federal interest.

TITLE I

This is the only place in Title I of the Senate version where racial motivation is made an element of an offense. But that requirement in proposed section 245 (b) (2) is made meaningless by (b) (4) of such section which makes it a crime to do what (b) (2) forbids even if racial motivation is lacking.

Thus the element of racial motivation drops out of the Senate version -- an effect which was probably not intended by the other body. Thus, for example, if a fist fight breaks out in a labor dispute because one party was "enjoying employment. . . by any private employer" as, say, a scab laborer, then a federal crime may have been committed. The same might be true if two employees fought over the fact that one received a bonus (a "perquisite") while the other did not. These results are not in harmony with the probable legislative intent of the other body, let alone that of the House.

One should recall that one of the earlier stalemates in the other body was caused by the question whether racial motivation should be made an element of the crime. Though subsections (b) (1) and (b) (2) give the appearance of compromise on that question, subsection (b) (4) indicates that the so-called liberal bloc lost the bargain.

The other example of a disparity in Title I between what was intended and what was legislated grows out of the Mrs. Murphy amendment [compare section 201 (b) (1) of the Civil Rights Act of 1964] proposed by Senator Cooper (Cong. Rec., S 2351-52, March 7, 1968). The amendment reads:

> "Nothing in subparapraph (2) (F) or (4) (A) of this subsection shall apply to the proprietor of any establishment which provides lodging to transient guests, or to any employee acting on behalf of such proprietor, with respect to the enjoyment of the goods, services facilities, privileges, advantages, or accommodations of such establishment if such establishment is located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor as his residence."

Thus if Mrs. Murphy wishes to imtimidate a prospective Negro tenant she may do so without violating Title I of the Senate version. But suppose the Ku Klux Klan intimidates Mrs. Murphy because she has a Negro tenant. Does Title I of the Senate version protect her? No. The relevant language is found in proposed section 245 (b) (4) (B): no one may intimidate Mrs. Murphy for "affording another person. . . opportunity. . . to so participate."

The language refers back to (4) (A) whose coverage was truncated by the Cooper amendment. Thus, since Mrs. Murphy was affording opportunities beyond those delimited in (4) (A) she is not protected by (4) (B).

The House version of H. R. 2516 probably produces a different result in both cases: Mrs. Murphy could not intimidate (by force or threat of force) the prospective Negro tenant nor could the KKK intimidate Mrs. Murphy for affording a room to such a tenant.

Thus it should be noted that these last two major differences (racial motivation, protection of Mrs. Murphy) between Title I of the Senate version and H. R. 2516 as passed by the House are somewhat accidental. It is probable that the Senate did not intend to be different on those two issues.

The question of protection from and protection of Mrs. Murphy is not laid to rest by the Cooper Amendment to Title I. Since Title VIII does not regulate Mrs. Murphy [section 803 (b) (2)] and since the purpose of Title IX is only to enforce Title VIII with criminal sanctions, it would seem that none of the criminal sanctions in the Senate Amendment apply to the Mrs. Murphy situation. That was probably the intent of section 101 (b) of the Senate version which states:" "Nothing contained in this section shall apply to or affect activities under title VIII of this Act."

The argument would be valid if Title IX had been written to do no more than enforce Title VIII. But Title IX, mirroring the approach of Title I, makes it a crime to intimidate "any person because of his race. . . and because he is . . .renting. . . occupying. . . or negotiating for the . . . rental. . .

or occupation of any dwelling. . . ."

Thus Mrs. Murphy may not intimidate the prospective Negro tenant. And since Title IX also forbids intimidating anyone because he is "affording another person. . .opportunity. . .so to participate," the KKK cannot intimidate Mrs. Murphy for renting to a Negro without subjecting itself to criminal penalties.

Thus the results under Title IX, unlike those under Title I, appear to square with the House version.

Both the Senate and House versions provide for the protection of Civil Rights workers. While the House version protects Civil Rights workers who are "persons," the Senate version protects only those who are "citizens." See proposed section 245 (b) (5) in Title IX of the Senate version.

Both the Senate and House versions provide for an identical tier of penalties for violations of the Act based upon the seriousness of the offense.

Two Senate amendments attempt to make the protection provisions inapplicable to law enforcement officers. The first, proposed by Senator Talmadge, insulates officers who are "lawfully" carrying out the duties of their office, Sec. 245 (c). The second amendment, proposed by Senator Ervin, provides that the operative sections shall not apply to "acts or ommissions on the part of law enforcement officers. . .who are engaged in suppressing a riot or civil disturbance or restoring law and order during a riot or civil disturbance." Under the latter amendment, Sec. 101 (c), protection of the law may be wanting when it is needed most. Although neither the term "riot" nor the term "civil disturbance" is defined for the purposes of the chapter in question, it is clear that the Ervin Amendment would seriously decrease the number of people ("whoever, whether or not acting under color of law") whose conduct would be regulated by the proposed legislation.

The amendments to Sec. 241 and 242 of Title 18 concerning penalties are the same in the House and Senate versions.

The pre-emption Section of the House version says that no state law is pre-empted unless it is "inconsistent" with the federal law, whereas the Senate version makes clear that there is no pre-emption whatsoever. Since it is unlikely that a State would seek to enforce a statute conflicting with the federal policy stated herein, it is probable that the different approaches would produce the same result.

Finally, Sec. 245 (a) (1) of the Senate version states that no prosecution shall be undertaken unless the Attorney General certifies in advance that it is"in the public interest and necessary to secure substantial justice." The House version contains no such provision.

TITLE I

H. R. 421 and the Thurmond-Lausche amendment contain almost identical operative sections. However, the Senate version makes clear that the overt act which is required may occur either during the travel or use of the interstate facility or after the travel or use of such facility, whereas the House version seemed to say that the overt act could occur only after the travel or use of the interstate facility.

Sec. 2101 (b) of the Senate version provides for a rule of evidence. It is senseless. The House version has no such provision.

Sec. 2101 (c) of the Senate version provides that conviction or acquittal on the merits under the laws of any state shall be a bar to any federal prosecution "for the same act or acts." What is the scope of the quoted phrase? The House version has no such provision.

Sec. 2101 (d) of the Senate version requires that the Department of Justice quickly prosecute interstate rioters or report to Congress in writing. The House version has no such provision.

Sec. 2101 (e) of the Senate version insulates labor unions from the anti-riot provisions, so long as they are "pursuing the legitimate objectives of organized labor." The House, in the Committee of the Whole, twice handily rejected (120-66 on a division, Cong. Rec. H 8995, July 19, 1967, and 110-76 on a division, Cong. Rec. H 9000, July 19, 1967) similar exemptions for labor unions.

Sec. 2101 (f) of the Senate version is the anti-pre-emption section. It makes clear that the federal remedy is in addition to the state remedies. The House version says that the federal remedy does not pre-empt the state remedies unless they are "inconsistent." Since it is unlikely that a State would seek to enforce a statute conflicting with the federal policy stated herein, it is probable that the different approaches would produce the same result.

Sec. 2102 of the Senate version defines the terms "riot" and "to incite a riot," as does the House version. Both the House and the Senate versions make the mistake of applying the "clear and present danger" doctrine to the definition of a riot, rather than the definition of "to incite a riot."

For the doctrine sets down a rule by which freedom of speech is limited. See Schenck v. United States, 249 U. S. 47,52 (1919). Thus Congress may limit "speech" where it presents a clear and present danger of a riot. The doctrine does not address itself to the issue of whether a riot, in order to be defined as a riot, must present a clear and present danger of harm to the community.

The Senate definition of "riot" includes not only acts of violence, but also threats of acts of violence. The House version embraced only the former. The Senate version, like the House version, of the definition of the term "to incite a riot" states that such term does not mean the mere advocacy of ideas or expression of belief. However, the Senate version makes clear that "expression of belief" does not involve "advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit any such act or acts," whereas the House version is silent on that particular aspect.

These six titles were added to H. R. 2516 in the Senate by Senator Ervin. They constitute the exact provisions of S. 1843, a bill which passed the Senate without debate on December 6, 1967 and is presently pending before the House Committee on Interior and Insular Affairs. The bill has never before had the benefit of hearings in the House, although the Interior Committee has scheduled hearings beginning March 29, 1968, nor has such legislation been considered in any previous Congress.

A comprehensive analysis of these six titles concerning the Rights of Indians is found in Senate Report No. 841, 90th Congress, 1st Session (accompanying S. 1843).

TITLE II --RIGHTS OF INDIANS

This title creates a "bill of rights" for Indians in relationship to their tribal government similar to the guarantees of our Federal Constitution. It embodies portions of the First, Fourth, Fifth, Sixth, Seventh and Fourteenth Amendments and Article 1, Sec. 3 of the Constitution and applies them to Indians who are not now so protected. Indian tribal courts, acting under Indian customs, presently are not subject to Constitutional sanctions.

In addition to the specific portions of the Constitution made applicable to Indians, this title provides additionally that: (1) tribal courts may not impose criminal penalties in excess of $500 and six months imprisonment, or both; (2) jurors may not be fewer than six; (3) assistance of counsel shall be at the accused's own expense (present interpretations of Constitutional minimum requirements of the Sixth Amendment applicable to non-Indian citizens require lawyers to be appointed at no cost to the non-Indian accused, if he is indigent and the Criminal Justice Act of 1964 provides payment for such lawyers in the Federal Courts); (4) habeus corpus application for release from tribal detention shall be made in the Federal courts (under present Constitutional practice, non-Indian citizens, if imprisoned under

state law, must first seek habeus corpus by exhausting available state court remedies before applying to Federal courts.)

TITLE III -- MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

This title authorizes the Secretary of the Interior to draft for Congressional consideration a model code to govern the administration of justice by Indian courts which would supplant the present code now reposing in Title 25 of the Code of Federal Regulations and which is more than thirty years old. Curiously, this title requires that such code shall assure that any accused shall have the "same rights, privileges and immunities" as non-Indian citizens have under the Constitution. This blanket extension of protection under the Constitution seems to make the partial enumeration of "rights" under title II unnecessary or confusing.

TITLE IV -- JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

This title authorizes states not having jurisdiction over civil and criminal actions in Indian country within their boundaries to assume such jurisdiction only with the consent of the Indians (majority vote of adult Indians required). To accomplish that, title IV amends Public Law 83-280 (67 Stat. 588) which now permits States to assume such jurisdiction by legislative action and without Indian consent.

Some States presently exercise jurisdiction over Indians by authority of their own legislative enaction (PL 83-280) and some by Federal mandate (18 USC 1162, 28 USC 1360).

To implement the purposes of the bill -- to govern Indians only with their consent -- title IV repeals that part of PL 83-280 (Sec. 7) which permits States to assume Indian jurisdiction without Indian consent. The bill does not amend, however, those provisions of Federal law that specifically require certain States to assume jurisdiction. Instead title IV allows those States, along with the others now exercising jurisdiction, to retrocede such presently exercised jurisdiction back to the United States.

Retrocession presumably, would then permit those States to extend jurisdiction back to Indians only upon the Indians' consent. But careful analysis of the bill and Senate report No. 841 reveals a contrary result.

The Senate report says that title IV authority for States to assume Indian jurisdiction -- with Indian consent -- extends only to those States where no such jurisdiction "now exists." Thus, States now exercising jurisdiction are not granted authority to extend such jurisdiction to Indians even in the event they should retrocede that jurisdiction to the U. S. This anomalous situation occurs because retrocession necessarily would be a future event. The State retroceding jurisdiction would, at the time of retrocession, and only then, become a State "not having jurisdiction." The bill, as explained by the Senate report gives authority only to States where no jurisdiction "now exists." Therefore, those retroceding States would not be authorized by this or any other provision to regain jurisdiction for subsequent extension to Indians once it is given up.

The apparent gap between the bill's purpose and effect is due to the interpretation given the authority grant language, namely to those States where no jurisdiction "now exists." Although this interpretation frustrates the purpose of the bill, it is supported by the general rule that Congress does not give its consent to acts that may occur in the future. That doctrine is best demonstrated in the analogous situation where Congressional consent to interstate compacts is required. In such cases, the consent given is for only those acts presently occurring and not for acts that may happen in the future.

TITLE V --OFFENSES WITHIN INDIAN COUNTRY

This title amends the "Major Crimes Act" (18 USC 1153) to include an additional offense of "assault resulting in serious bodily injury." This offense, along with other serious crimes, will be prosecuted in Federal courts, since Indian courts may punish only up to $500 and six months, or both. Senator Ervin, who sponsored this amendment, thus sought to have serious assaults punished by more substantial penalties than imposed by Indian courts (Senate

Report No. 841, p. 12.) But that may not be the result. Section 1153, to which this crime is added, provides no specific penalty, but instead provides such punishment as the offense would merit under other Federal jurisdiction. But the crime this amendment specifically defines does not appear in Title 18 U. S. Code. Therefore, no Federal penalty is provided. The Federal assault statute most nearly similar in definition (18 USC 113d) provides no greater penalty than the Indian court may impose. It could be argued, however, that 18 USC 13 would apply to effect the purpose of this amendment. 18 USC 13 provides that offenses occurring in Federal jurisdictions that are not defined by Federal statute are punishable under applicable State law. However, that application not only raises questions of State jurisdiction over Indians which other parts of this bill would extend only with Indian consent, but it also raises questions of whether similar State laws even exist or, if they do, whether they provide greater penalties.

TITLE VI -- EMPLOYMENT OF LEGAL COUNSEL

This title provides that when approval of agreements between Indians and their legal counsel is required by the Secretary of the Interior or the Commissioner of Indian Affairs and takes longer than ninety days in forthcoming, such approval shall be deemed granted.

TITLE VII -- MATERIALS RELATING TO CONSTITUTIONAL RIGHTS OF INDIANS

This title authorizes and directs the Secretary of the Interior to revise, compile and publish certain documents and materials relating to Indian rights, laws, treaties and other affairs.

TITLE VIII OPEN HOUSING

This analysis will compare Title IV of the 1966 Civil Rights bill, H. R. 14765, which passed the House on August 9, 1966, with Title VIII of H. R. 2516, as passed by the Senate on March 11, 1968. The analysis will attempt primarily to note the differences in the two approaches.

The House version was more narrow in its scope and more stringent in its enforcement. The House version sought to regulate only real estate brokers, their employees, salesmen and people "in the business" of building developing, selling and so forth. The Senate version, rather than treat the commerce of building, selling, and renting houses, embraces every dwelling in the nation except for certain cases where the conduct of the owner qualifies for an exemption from the law.

The House version established strict enforcement procedures. It established a Fair Housing Board as a new government agency with broad powers, similar to that of the National Labor Relations Board. Thus, the complainant would seek the vindication of his fair-housing rights before the Board, rather than going to court, as he would under the Senate version. Under the House version, the Secretary of HUD served in an ancillary enforcement capacity, but his powers were limited to investigating, publishing reports and studies, and co-operating with other agencies in eliminating discriminatory housing practices.

Under the Senate version, the Secretary of HUD is authorized to educate, persuade and conciliate in order to eliminate discriminatory housing practices. But, if the Secretary of HUD is unsuccessful, the sole recourse under the Senate version is to the court, State or federal, and not any administrative agency, such as a Fair Housing Board.

The two versions differ in more particular ways. Under the Senate version, the discriminatory basis is that of race, color, religion or national

origin. The House version covered those four bases but also, at times, referred to the factors of economic status and of children, both in their number and their age, as discriminatory bases upon which the bill was predicated.

The House version forbade real estate brokers and the like to refuse to use their "best efforts" to consumate any sale or rental because of race, color etc., whereas the Senate version is silent.

Moreover, theHouse version forbade brokers and the like from engaging in any practice to restrict the availability of housing on the basis of race, color, etc., whereas the Senate version is silent.

The House version made clear that nothing in the Act would affect the right of the broker to his commission, whereas the Senate version is silent. On the question of the breadth of coverage, Sections 403 (e) and 402 were at the heart of the House approach in that they emphasized the freedom of the typical home-owner in selling or renting. Sec. 403 said:

"(e) Nothing in this section shall prohibit, or be construed to prohibit, a real estate broker, agent, or salesman from complying with the express written instructions of any person not in the business of building, developing, selling, renting, or leasing dwellings, or otherwise not subject to the prohibitions of this section pursuant to subsection (b) or (c) hereof, with respect to the sale, rental, or lease of a dwelling owned by such person, if such instruction was not encouraged, solicited, or induced by such broker, agent, or salesman, or any employee of agent thereof,"

The last sentence of Sec. 402 reads:

"But nothing contained in this bill shall be construed to prohibit or affect the right of any person, or his authorized agent, to rent or refuse to rent, a room or rooms in his home for any reason, or for no reason; or to change his tenants as often as he may desire."

Since the House version regulated only those in the business of selling, renting, or developing, those who were not in such business were implicitly exempt although they were not expressly exempt. The only express

exemption (the last sentence of section 402, quoted above) applied to home-owners renting rooms in their own "homes" (whatever that means) even though they might otherwise be "deemed to be in the business" of renting under section 402 (d).

However, the Senate version covers all classes of dwellings in all transactions except three. They are as follows:

A. A single-family "house" (whatever that means) sold or rented by an owner but only if the following four conditions are true:

1) he owns three or fewer single-family houses,
2) he sells no more than one non-residence in any two year period,
3) he sells without the services of a broker or the like, and
4) he sells without any discriminating advertising.

These conditions present some problems.

The first condition is modified by an attribution clause resembling in purpose those found in the Internal Revenue Code. That is, the ownership of an item by one spouse or relative is attributed to the other spouse or relative lest some rule be circumvented. The attribution clause here is very loose in comparison to IRC attribution sections.

The second condition is phrased in troublesome language: "The exemption. . . shall apply only with respect to one such sale within any twenty-four month period." What if two non-residences are sold in such time? Which sale gets the exemption? The first? Or is it the seller's choice?

The fourth condition requires that, "after notice," there be no discriminatory advertising. What "notice"? By whom? there is no intimation in the entire Title of what is meant by "after notice."

However, it is clear that regardless of circumstances, no one can "make. . . any notice, statement, or advertisement" that discriminates, section 804 (c). That applies to all dwellings except religious and fraternal organizations exempted by section 807. Thus the fourth condition, which is stated

in more narrow terms (it requires less of the seller) apparently contradicts the broader requirement of section 804 (c) stated above.

The fourth condition would seem to require only the avoidance of written discriminatory advertising whereas section 804 (c) would arguably require the avoidance of both written and spoken (a "statement" can be oral) "indications of preference."

So, does the fourth condition mean that less is required? Or is it simply a nullity?

Furthermore, don't these prohibitions violate "free speech" under the First Amendment? Does not a citizen have the right to indicate his preference by the spoken or written word? Those questions are not easy to answer.

B. Mrs. Murphy's boardinghouse. It appears that under section 803 (b) (2), there is an exemption for "rooms or units in dwellings" holding no more than four families [" 'family' includes a single individual" -- section 802 (c)] living independently of each other, if the owner resides therein. The exemption applies to both the sale and rental of rooms and units, not merely to rental as would be true if this were purely a Mrs. Murphy exemption. (Note in comparison that private clubs are exempt only for rental purposes under section 807.) Is it then possible for Mrs. Murphy to sell all her units (i.e., her house) to one buyer and still be exempt?

If Mrs. Murphy is not exempt by section 803 (b) (2) in selling her dwelling, is she exempt under section 803 (b) (1)? Is Mrs. Murphy's house a "single-family" dwelling? From the use of language in Title VII, especially in sections 802 (b), 802 (c) and 803 (b) (2), it would seem that a "single-family" house is one which is "occupied as, or designed or intended for occupancy as, a residence by one family.

Thus if Mrs. Murphy has a boarder or if her house is designed to hold both the Murphy family and others as well (i.e., it has an extra room), then her house is not exempt for sale purposes under section 803 (b) (1).

Of course, there are many homes that fit that definition. If the definition is correct, then many dwellings considered exempt will not prove so.

However, the sections delimiting the exemptions are not so clear as they should be in view of their central importance.

It is interesting to note that a four-apartment condominium would be exempt under section 803 (b) (2) whereas a co-operative would not, because in the former, each family owns a unit, whereas in the latter each family owns an undivided quarter which may not be considered by a court to be a "room" or "unit." The policy for making such a distinction is not clear.

However, the House version contained a provision, section 403 (b), which was substantially similar to section 803 (b) (2).

C. 1. A dwelling maintained by a religious group for a non-commercial purpose, exempt as to both sale and rental.

2. A dwelling maintained as a bona fide private club for a non-commercial purpose, exempt as to rental only so that preference can be given to members of such club.

In the House version, section 403 (c) exempted the same two groups as to both the sale and rental to their own members.

Section 805 of the Senate version forbids banks and similar institutions from discrimination on the basis of race, color, etc. in the financing of housing. So did section 404 of the House version.

Section 806 of the Senate version forbids discrimination in the provision of brokerage services. So did section 403 (a) (6) of the House version.

As for the enforcement of the open housing provision, it was noted earlier that the House version provided for an administrative remedy before the Fair Housing Board.

In contrast, section 810 of the Senate version permits any aggrieved person to file a complaint with the Secretary of HUD within 180 days after the alleged discriminatory housing practice occurred. Within thirty days after receiving a complaint, the Secretary must notify the aggrieved person whether he intends to resolve the complaint. The Secretary, if he intends to do so, then proceeds to correct the alleged discriminatory housing practice by informal methods of conciliation and persuasion.

The functions of the Secretary are delegable within the Department. However, HUD has only six regional offices and one area office within the United States. The bill does not make clear how or where a complaint will be filed. However, section 808 (c) does state that conciliation meetings shall be held in the locality where the alleged discrimination occurred.

Under section 810 (c), where there is a State or local fair-housing law applicable, the Secretary is required to notify the appropriate State or local agency of any complaint filed with him. If, within thirty days after such notice has been given to the appropriate State or local official, such official commences proceedings in the matter, then the Secretary must refrain from further action unless he certifies (why? to whom?) that such action is necessary.

However, section 310 (d) interrupts this conciliation process by permitting the aggrieved person within thirty days after the filing of a complaint (that is, within the same period that the Secretary has to judge the substantiality of the complaint) to file an action in the appropriate U. S. district court against the respondent named in the complaint -- unless State or local law provides "substantially equivalent" relief, whereupon such relief must .e sought.

However, the Secretary may continue to seek voluntary compliance up until the beginning of the trial (as distinguished from the commencement of the law suit.)

In the course of the investigation, the Secretary is permitted to make whatever searches and seizures are necessary "provided, however, that the Secretray first complies with . . . the Fourth Amendment." The Secretary may issue subpenas to compel production of such materials and may issue interrogatories and may administer oaths. Any person who is found in contempt of the Secretary by"willfully" neglecting to attend and testify or to answer any lawful inquiry or to produce records shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Thus, in summary, the Secretary's powers are limited to education, conciliation, and investigation. He apparently cannot enforce the title; only a court can.

However, section 808 (c) yields a contradictory implication. It empowers the Secretary to prescribe the "rights of appeal from the decisions of his hearing examiners." That implies <u>administrative</u> <u>enforcement</u> of the prohibitions of the title. It might be the source of an unintended enlargement of administrative power. Caution would require its elimination.

Section 812 states what is apparently an alternative to the conciliation-then-litigation approach above stated: an aggrieved person within 180 days after the alleged discriminatory practice occurred, may, without complaining to HUD, file an action in the appropriate U. S. district court. At this point, two commands come into play: Section 812 commands the court to wait to determine if the Secretary can achieve voluntary conciliation, while section 814 requires that the court "assign the case for hearing to the earliest practicable date and cause the case to be in every way expedited." Note further that the command of section 814 to expedite applies only in the situation

where the aggrieved party has not sought the assistance of the Secretary of HUD, but has instead filed a civil action without the prior aid of the Secretary. If the aggrieved party has first sought the assistance of the Secretary and then files an action within thirty days of his filing the complaint with the Secretary, then the civil action arises under section 810 (d), a section to which the expedition requirement of section 814 does not apply.

Section 812 (d) also changes the law concerning the bona fide purchaser and the doctrine of lis pendens. Under section 812 (a), it appears that a person who purchases a house that is involved in a law suit is termed a bona fide purchaser if he does not actually know of the law suit, even though he has constructive knowledge that such a law suit was pending.

Section 812 (b) permits the court to appoint an attorney for the plaintiff where justice requires it. However, the court has that power only where the action is brought under section 812 and not where the action is brought under section 810 (that is, after the assistance of the Secretary has been sought.) Note that under section 812 (c), the court may award up to $1,000 in punitive damages. The House version contained no such provision.

Both the Senate version, section 115, and the House version, section 407 (a), stated that the provisions of the federal law do not pre-empt State and local open housing laws, but do pre-empt State and local laws which required or permitted discriminatory housing practices.

Section 817 of the Senate version establishes a civil cause of action in tort for the interference by coercion or threats with any person in the enjoyment of his right to fair housing. Section 407 of the House version is comparable.

Section 819 of the Senate bill is a separablilty clause. The House version contained no such clause. However, whereas the 1966 House bill fell within the Congressional power over interstate commerce, the more far-reaching Senate bill probably does not and must look to section 5

of the Fourteenth Amendment as its constitutional basis. Since section 1 of the Fourteenth Amendment focuses only on "State" action, it has long been doubted that Congress could reach private discriminatory action through legislation to "enforce" section 1 of the Fourteenth Amendment, See Civil Rights Cases, 109 U. S. 3 (1883). However, six Justices of the Supreme Court of the United States, in the case of United States v. Herbert Guest, 383 U. S. 745 (1966), stated in dictum that section 5 of the Fourteenth Amendment empowers Congress to enact laws which reach private discrimination.

The following is a list of the comparable sections in the House and the Senate versions:

HOUSE VERSION 1966	SENATE VERSION 1968
401	801
403 (a) (1)	804 (a)
403 (a) (2)	804 (b)
403 (a) (3)	804 (c)
403 (a) (5)	804 (d)
403 (a) (6)	806
403 (a) (8)	804 (e)
403 (b)	803 (b) (2)
403 (c)	807
404	805
405	817
406 (a)	812 (a)
406 (b)	812 (b)
406 (c)	812 (c)
407 (a)	813
410	815

TITLE IX

PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES

Title IX of the Senate version provides criminal sanctions in the the fair-housing area, just as Title I provided criminal sanctions in the areas enumerated in that Title. The Senate version apparently classifies the open-housing area as one of lesser federal interest and thus, as in Title I, requires racial motivation as an element of the crime in one section, but not in another. Compare section 901 (a) with section 901 (b) (1). Since the treatment of open housing in Title IX is identical with Title I's treatment of the areas of lesser federal interest, there is no readily apparent reason why Title IX could not have been incorporated into Title I.

Title V, section 501 (a) (5) of the 1966 bill, passed by the House, also provided criminal sanctions for the interference with any person because of his race, color, religion or national origin while he is seeking to engage in the purchase, rental, or cccupancy of any dwelling.

Note that both of these protection provisions with criminal sanctions are broader in scope than the open-housing rights recognized for civil-law purposes. In both versions, the criminal sanctions apply with reference to "any dwelling" without exception.

Note also that because both versions protect the right to occupy any dwelling, that they are both public-accomodation and open-housing provisions.

TITLE X -- CIVIL OBEDIENCE

Three new Federal crimes punishable by $10,000 or five years, or both:

1. Teaching or demonstrating the use of making of firearms or explosives or incendiaries or techniques capable of causing injury, knowing or having reason to know such devices will be used unlawfully in a civil disorder adversely affecting commerce or the performance of a federally protected function.

2. Transporting or manufacturing for transportation in commerce a firearm or explosive or incendiary knowing or having reason to know that such device will be used unlawfully in furthering a civil disorder.

3. Commission of an act to obstruct a law enforcement officer or fireman lawfully engaged in performing his duties incident to and during a civil disorder which adversely affects commerce or the performance of a federally protected function.

Section 232 defines "civil disorder" as a "public disturbance involving acts of violence by assemblages of three or more persons . . ." This definition of civil disorder is different from the Title I definition of "riot" (pages 7-8 of this memo). Civil disturbances for gun control and firemen and policemen protection purposes require acts of violence (but not threats) by assemblages, whereas riots require acts of violence (or threats of violence) by only one person as part of an assemblage. There seems no apparent reason for this confusing difference except that the "riot" amendment was offered by Senators Thurmond and Lausche and "civil disturbances" amendment was offered by Senator Long(D-La.) From the debate record, it appears that both sections were meant to treat with the same kind of "disturbance" or riot.

Section 231 (a) (1), listed as number 1 under Title X above raises questions as to the scope of "teaching" and"demonstrating" either

use of weapons or "techniques capable of causing injury. . ." when coupled with criminal liability for those acts by "having reason to know" that such weapons or techniques will be used unlawfully in furtherance of a civil disorder. What does that prohibition include? Also, what is the meaning of the requirement that the disorder adversely affect commerce? Does scienter also include knowledge of the affect on commerce?

The prohibition against transportation or manufacture for commerce of firearms and incendiaries, unlike the teaching and demonstrating prohibition, does not require that the disorder affect commerce. Does that difference make the disorder any more or less serious. Should teaching about firearms, incendiaries or "techniques" that cause injury become criminal only in disorders that affect commerce and should shipping firearms and incendiaries become criminal in disorders that do not affect commerce?

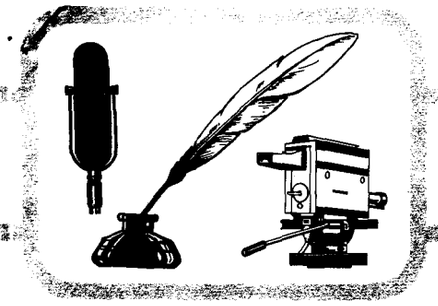
The firearms sections differ substantially from the proposals now being considered in the House and Senate Judiciary Committess (Dodd, Celler, Hruska and Biester-Railsback bills) in that these Title X sections prohibit the domonstration and transfer and manufacture of firearms and explosives with respect to their subsequent use. The bills in Judiciary Committees would simply regulate commerce of such devices and would not rely on subsequent use. Use of firearms and similar divices has been a matter for local control by states and political subdivisions.

Law enforcement officials, lawfully performing their duties, are excluded from the prohibitions of Title X.

Neither the 1966 nor the 1967 House passed Civil Rights bills contained provisions affecting firearms.

Full distribution

Office Copy



CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

NEWS RELEASE

--FOR RELEASE AT 12 NOON MONDAY--
August 10, 1970

Remarks by Rep. Gerald R. Ford, R-Mich., on the resolution proposing a Women's Equal Rights Amendment to the U.S. Constitution.

Mr. Speaker: Men are not generally speaking anti-women; it simply appears to work out that way.

I, for one, do not plead guilty to the charge. In my own defense, I would note that I am very happy to confer all rights -- and responsibilities -- on my wife. In addition, I would point out that I had something to do with the fact that 15 of the last 16 House members to sign the petition discharging the House Judiciary Committee from jurisdiction over H. J. Res. 264, the Women's Equal Rights Amendment, were Republicans.

In all seriousness, I am delighted to have had a hand in bringing to the House floor the proposed Women's Equal Rights Amendment to the U.S. Constitution.

The purpose of the amendment is most laudable: To provide constitutional protection against laws and official practices that treat men and women differently.

The proposed amendment would provide that: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

This amendment would insure equal rights under the law for men and women and would secure the right of all persons to equal treatment under the laws and official practices without differentiation based on sex.

Adoption of the amendment would, of course, require a two-thirds vote of both Houses of Congress and ratification by three-fourths of the States. I hope the Congress will recognize the justice of this amendment and the clear and present need for it. I call upon this House to render its two-thirds approval.

We like to believe that we live in an enlightened age. How can any age and any nation be termed enlightened if it continues discrimination against women? And we do, of course, still have discrimination against women simply because they are women.

This amendment has been pending before the House Judiciary Committee for 47 years -- since 1923. You would almost think there had been a conspiracy. Under the circumstances it is almost silly to say it is time we did something about it. It is long past time.

(more)

The great French writer Victor Hugo said: "Greater than the tread of mighty armies is an idea whose time has come."

There is no question that the Women's Equal Rights Amendment is just such an idea. Its time has come just as surely as did the 19th Amendment to the Constitution 50 years ago, giving women the right to vote.

I think it is fitting that today, when the Women's Equal Rights Movement may well be crowned with success, the initiative to implement full equal rights for women comes in the House. After all, the House has remained quiescent or adamant on this score -- take your choice -- for 47 years while the Senate has twice passed a Women's Equal Rights Amendment, in 1950 and 1953. And we are passing the amendment free and clear of anything like the Senate's Hayden rider, which threw in a qualifier unacceptable to women.

It is also most fitting that the House should be the first to act today because the prime mover of this amendment in the Congress is my dear colleague from Michigan, Rep. Martha Griffiths. Passage of this amendment would be a monument to Martha.

Mr. Speaker, this amendment should really be unnecessary. But it clearly is mandatory because women today do not have equal rights. This amendment will give them those most valued of rights -- the rights to a job, to a promotion, to a pension, to equal social security benefits, to all the fringe benefits of any job. There is no denying that these rights are different for women than for men.

It is, of course, easy to jest about this matter. For instance, I am sure our G.I.'s will not complain if women are drafted into the Armed Forces in the same numbers as men. And I'm sure there are men who will welcome the awarding of alimony to husbands in divorce actions.

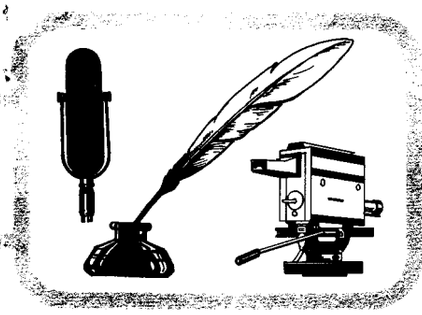
In any case, I know that men will still look upon women as the fairer sex and will want to continue opening doors for them. This is not inequality, just "woomanship."

Mr. Speaker, Mrs. Griffiths and others have made an excellent case for adoption of the Women's Equal Rights Amendment. I urge overwhelming House approval of H. J. Res. 264.

# # #

NOTE TO FIFTH DISTRICT NEWS MEDIA

On Monday, August 10, the House of Representatives will consider House Joint Resolution 264, the Women's Equal Rights Amendment to the U.S. Constitution, and is expected to approve it by more than the two-thirds majority required. The resolution had been locked up in the House Judiciary Committee and reaches the House floor only by virtue of the fact that 218 House members, a majority, signed what is known as a "discharge petition." A discharge petition, if it receives enough signatures, takes a bill away from a committee which is sitting on it. This particular discharge petition was introduced by Rep. Martha Griffiths, D-Mich. Lacking enough signatures, she appealed to Ford. Since Ford is Republican leader of the House, he used his "powers of persuasion" and the net result was that 15 of the last 16 signatures needed to bring the number of petition signers to 218 came from Republicans. That is the background for the five-minute speech Ford is scheduled to make on the House floor Monday. A copy of that speech is attached.



CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

NEWS RELEASE

--FOR RELEASE AT 12 NOON MONDAY--
August 10, 1970

Remarks by Rep. Gerald R. Ford, R-Mich., on the resolution proposing a Women's Equal Rights Amendment to the U.S. Constitution.

Mr. Speaker: Men are not generally speaking anti-women; it simply appears to work out that way.

I, for one, do not plead guilty to the charge. In my own defense, I would note that I am very happy to confer all rights -- and responsibilities -- on my wife. In addition, I would point out that I had something to do with the fact that 15 of the last 16 House members to sign the petition discharging the House Judiciary Committee from jurisdiction over H. J. Res. 264, the Women's Equal Rights Amendment, were Republicans.

In all seriousness, I am delighted to have had a hand in bringing to the House floor the proposed Women's Equal Rights Amendment to the U.S. Constitution.

The purpose of the amendment is most laudable: To provide constitutional protection against laws and official practices that treat men and women differently.

The proposed amendment would provide that: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

This amendment would insure equal rights under the law for men and women and would secure the right of all persons to equal treatment under the laws and official practices without differentiation based on sex.

Adoption of the amendment would, of course, require a two-thirds vote of both Houses of Congress and ratification by three-fourths of the States. I hope the Congress will recognize the justice of this amendment and the clear and present need for it. I call upon this House to render its two-thirds approval.

We like to believe that we live in an enlightened age. How can any age and any nation be termed enlightened if it continues discrimination against women? And we do, of course, still have discrimination against women simply because they are women.

This amendment has been pending before the House Judiciary Committee for 47 years -- since 1923. You would almost think there had been a conspiracy. Under the circumstances it is almost silly to say it is time we did something about it. It is long past time.

(more)

The great French writer Victor Hugo said: "Greater than the tread of mighty armies is an idea whose time has come."

There is no question that the Women's Equal Rights Amendment is just such an idea. Its time has come just as surely as did the 19th Amendment to the Constitution 50 years ago, giving women the right to vote.

I think it is fitting that today, when the Women's Equal Rights Movement may well be crowned with success, the initiative to implement full equal rights for women comes in the House. After all, the House has remained quiescent or adamant on this score -- take your choice -- for 47 years while the Senate has twice passed a Women's Equal Rights Amendment, in 1950 and 1953. And we are passing the amendment free and clear of anything like the Senate's Hayden rider, which threw in a qualifier unacceptable to women.

It is also most fitting that the House should be the first to act today because the prime mover of this amendment in the Congress is my dear colleague from Michigan, Rep. Martha Griffiths. Passage of this amendment would be a monument to Martha.

Mr. Speaker, this amendment should really be unnecessary. But it clearly is mandatory because women today do not have equal rights. This amendment will give them those most valued of rights -- the rights to a job, to a promotion, to a pension, to equal social security benefits, to all the fringe benefits of any job. There is no denying that these rights are different for women than for men.

It is, of course, easy to jest about this matter. For instance, I am sure our G.I.'s will not complain if women are drafted into the Armed Forces in the same numbers as men. And I'm sure there are men who will welcome the awarding of alimony to husbands in divorce actions.

In any case, I know that men will still look upon women as the fairer sex and will want to continue opening doors for them. This is not inequality, just "woomanship."

Mr. Speaker, Mrs. Griffiths and others have made an excellent case for adoption of the Women's Equal Rights Amendment. I urge overwhelming House approval of H. J. Res. 264.

# # #