and in many other areas. They began new trends in art.

Despite their treatment in this country, they brought up their children to be good and loyal citizens. There has, for instance, been almost no juvenile delinquency among Nisei.

In World War II and the Korean war the Nisei, encouraged by the Issei, won proportionately more battlefront decorations than any other major ethnic group.

Since World War II, the JACL points out, widespread acceptance of Japanese Americans and their rapid advances in professions, the arts, industry, and Government service has proved that American democracy does not limit full citizenship to Caucasians.

OBJECTIVES OF PROJECT

The project staff is gathering information on the Issei's reasons for coming to the United States, their occupations, motivations, and achievements here, their relations with the Nisei, and the relations of both groups with the larger society. Analyzing this information will, they believe, help explain the Japanese American's acculturation and achievements in the United States.

Upon completion of the study, a permanent collection of Japanese American and related documentary materials and interviews will be established at UCLA.

T. Scott Miyakawa, visiting associate professor of sociology at UCLA on leave from Boston University, is directing the study.

The JACL, which has national headquarters in San Francisco and a Pacific Southwest office in Los Angeles, is helping the project locate documents, the names and addresses of Issei, and other information.

According to the JACL, 31 percent of the Japanese Americans in mainland America live in the Los Angeles area.

Carnegie Corp. of New York was founded by Andrew Carnegie in 1911 for the advancement and diffusion of knowledge and understanding among the peoples of the United States and certain Commonwealth areas. Its assets now total approximately $232 million at book value. Grants are made from income only.

DEATH OF J. HYDE SWEET

Mr. CURTIS. Mr. President, Nebraska is mourning the passing of a prominent citizen, one who served his community, his State, and his Nation, with distinction.

Mr. J. Hyde Sweet, longtime publisher of the Nebraska City News-Press, died on April 4, 1964, at Wickenburg, Ariz., following a stroke. His death leaves a void not only among Nebraska newspapermen but also among a wide circle of friends and acquaintances engaged in other civic undertakings.

Hyde Sweet was recognized as one of the State's most vigorous newspaper editors. His column, "Kick Kolumn," was probably the most widely quoted in Nebraska.

Beginning as a printer's devil, typesetter, and janitor when he was 13 years old, Hyde Sweet began a family tradition of newspapering now carried on by his son, Arthur, who is managing editor of the News-Press. He joined the Press, predecessor of the News-Press, in 1909. The News and Press were merged in 1926, and the News-Press marked its 100th anniversary on November 14, 1954.

Always active in bettering his community and his State, Hyde Sweet served briefly in the U.S. Congress as well. He came to Washington in 1939 as secretary to First District Congressman George Heinke. When Congressman Heinke was killed in an auto accident in December of that year, Hyde Sweet was elected to complete the term. He did not seek reelection. As a freshman Congressman at the time, I recall with great respect that year we served together in the House. He was a great American in its finest sense.

It will be a long, long time, Mr. President, before the void left by J. Hyde Sweet's passing can be filled completely.

CONSTRUCTION OF REHABILITATION CENTER FOR HANDICAPPED CHILDREN AND ADULTS BY WYOMING FRATERNAL ORDER OF EAGLES

Mr. McGEE. Mr. President, a fine example of what can be done by an organization dedicated to service and to helping those less fortunate than themselves is the drive now underway by Wyoming Fraternal Order of Eagles to construct a rehabilitation center for handicapped children and adults near Thermopolis.

An article describing this center and the drive to make it a reality was published in the May issue of the Eagles magazine. I ask unanimous consent that the article be printed in the RECORD.

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

A SHELTERED WORKSHOP IN WYOMING—WHEN THE JOB IS DONE WE CAN RIGHTFULLY BE CALLED FRATERNALISTS

(By Jack Williams)

The dream conceived at the 1960 State convention in Powell is nearing fulfillment for physically handicapped children and adults.

Because Wyoming Eagles, with compassion and unsurpassed love for their fellow man, determined to help crippled children and adults learn a new way of life—learn again to play, to be a useful force in their own communities, the Eagles Sheltered Workshop, nestled near the foothills of the Rocky Mountains in Hot Springs State Park near Thermopolis, will soon become a reality.

Here a man can learn a new way of life, a new way to earn a living not only for himself but, through gainful employment will be able once more to provide for his loved ones. Here a child, suddenly faced with the stark reality that he is "different" from his playmates can learn that life is not ended—a new door will be opened. That child can learn to play, that child can learn a trade and a hobby. But more important, the youngster—or adult—will know that even with a crippling handicap much is worthwhile, much can be done. A rich and full life lies ahead with all the dreams and desires within reach.

Through the untiring efforts of Wyoming Eagles, headed by Dr. H. L. Pieters and other dedicated leaders, the State donated about one and one-half acres of land in Hot Springs State Park where the Eagles Sheltered Workshop will soon be erected.

Already more than $22,000 of the $70,000 goal has been raised by Eagle aeries and auxiliaries in the State.

To help the program along, Gov. Clifford Hansen recently signed an official proclamation designating the week beginning April 26 through May 2, 1964, as Sheltered Workshop Week in Wyoming. This permits the committee to solicit funds over the entire State, with the proceeds earmarked for the Sheltered Workshop Fund for the Handicapped.

In signing the proclamation, Governor Hansen praised Wyoming Eagles for their sincere concern of the multiple problems facing children and adults who must suddenly adjust their lives because of crippling handicaps.

In urging widespread support for this great humanitarian program, Dr. Pieters and his committee emphasize that the workshop is not only for the handicapped in Wyoming but for the handicapped throughout the Nation.

The committee stated that membership in the Eagles is not a requirement for help through this program. Anyone is eligible, man, woman, boy or girl. The leaders in this project said: "Please do not sit back and say 'let Joe do it.' We all have a stake in this job until it is done. Please help."

Tentative plans call for the construction of the building, across the street from the noted Gottche Rehabilitation Center where the crippled in the State now are physically rehabilitated.

The Eagles Sheltered Workshop will complete the rehabilitation process by preparing the handicapped to hold down a job. Any trade or craft which an individual is capable of learning will be taught him at the Eagles Sheltered Workshop.

Any aerie or auxiliary wishing to be a part of this program can send donations to John Williams, Secretary of Aerie 2350, Green River, Wyo.

CIVIL RIGHTS ACT OF 1963

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 516, as modified, proposed by the Senator from Illinois [Mr. DIRKSEN] for himself and the Senator from Montana [Mr. MANSFIELD] as a substitute for amendment No. 513, proposed by the Senator from Georgia [Mr. TALMADGE] for himself and other Senators, inserting a new title at page 54, after line 7, relating to criminal contempt.

Mr. HUMPHREY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 178 Leg.]

Aiken	Humphrey	Moss
Bayh	Inouye	Mundt
Beall	Jackson	Neuberger
Burdick	Javits	Pastore
Cannon	Johnston	Pearson
Carlson	Jordan, Idaho	Pell
Case	Keating	Prouty
Church	Kennedy	Proxmire
Clark	Kuchel	Ribicoff
Cooper	Lausche	Robertson
Curtis	Long, La.	Saltonstall
Dodd	Mansfield	Scott
Dominick	McCarthy	Simpson
Douglas	McGee	Smith
Eastland	McGovern	Sparkman
Ellender	McIntyre	Symington
Fong	McNamara	Walters
Gore	Metcalf	Williams, N.J.
Gruening	Miller	Williams, Del.
Hart	Monroney	Young N. Dak.
Hartke	Morse	Young, Ohio
Holland	Morton	

The PRESIDING OFFICER (Mr. WALTERS in the chair). A quorum is present.

THE WAR IN VIETNAM

Mr. MORSE. Mr. President, the disinterest of Pakistan in the Vietnam war should be a warning to the American people that the United States is pursuing a futile and hopeless war in South Vietnam known as "McNamara's War." The Secretary of Defense has approved the term "McNamara's War" as a proper label for the war—a label which the senior Senator from Oregon has attached to it for many weeks. The Senator from Alaska [Mr. GRUENING] discussed it at some length yesterday afternoon.

I congratulate the Senator from Alaska again for his courage and his statesmanship. He pointed out how unreliable are not only Pakistan, but our other alleged allies in the SEATO treaty—New Zealand, Australia, Thailand, the Philippines, Great Britain, and France. I wish to pursue the point of view expressed by the Senator from Alaska for a few moments at this time.

Few nations in the world have received as much money from the United States as has Pakistan. When the foreign aid bill is reached this year, Pakistan will be included in the amendment that I shall offer seeking to bring to an end all foreign aid to alleged allies that are perfectly willing to take our money and then walk out on us.

We have extended this money to Pakistan on the theory that Pakistan was an ally against communistic expansion in Asia. We could not have been more wrong. After the statements of April 27 by her foreign minister, we know that Pakistan is no such thing. Least of all has she any intention of drawing upon herself the disapproval of Communist China by supporting a U.S. war effort in Vietnam.

The painful truth is that not one of our alleged allies has been willing to do so. They include the Philippines, Thailand, and Pakistan—all huge beneficiaries of our financial support. They have turned their backs upon involvement in Vietnam. The most that they have been willing to do is to encourage the United States to continue the struggle alone.

The abandonment of Vietnam to its fate by those countries is in keeping with the indifference of the Vietnamese people themselves. This is not a Pakistani war, a Thai war, a Philippine war, nor a war of the people of South Vietnam. It is McNamara's war. It is a war financed, directed, and largely fought by the United States for itself and for its stooge, General Khanh.

It is a war that we are conducting in behalf of a puppet government that we set up starting in 1954, and have now taken through three puppet dictators—Diem first, then Minh, and now our latest puppet, Khanh. No one else in Asia wants any part of it. Pakistan has made that crystal clear. They will take our money; but they will never stick their necks out for an American interest. They are more interested in entering into further treaty arrangements with Red China. The people of South Vietnam have been notably lacking in support of the war. The announcement of a new election in South Vietnam is the latest "gimmick" in the propaganda job that is being done on the American people. The Senator from Alaska [Mr. GRUENING], the Senator from Louisiana [Mr. ELLENDER], and I, have been pointing out for weeks in the Senate that we are not supporting freedom in South Vietnam. This is not a government of freedom. It is a military dictatorship controlled by an American puppet. We are not supporting freedom in South Vietnam. We have been pointing out the lack of institutions of freedom in that country. Now we have seen the propaganda "gimmick" in the newspapers in the past few days, to the effect that there are to be elections.

That sounds good, but do not forget that Diem had elections too—the same kind of elections there are in Russia. The people vote for a ticket put up by the government, and the vote is "Yes."

So the announcement of new elections does not indicate that they will be any different from those staged by the Diem government when the only candidates that could be voted on were those chosen and placed on the ballot by the government itself.

These elections in South Vietnam have no more meaning than Communist elections, because in both cases the public can only vote "Yes."

Sooner or later the United States is going to have to give up this kind of protectorate in Vietnam. The only question is how much American blood and treasure will be spent before we do give it up.

It continues to be my fervent hope that my Government will recognize its legal and moral obligation to turn this matter over to the United Nations before the casualty lists really mount.

I ask unanimous consent to have printed in the RECORD two letters I have received on this subject, one from a sergeant stationed in South Vietnam, and another from a civilian who was associated with our aid program to South Vietnam, with their names deleted.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

APRIL 20, 1964.

Senator WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORSE: I have long applauded your forthright, independent stands on many issues and particularly your recent statements on the Vietnam situation.

I recently returned from Vietnam where I served for over a year as an adviser to the Vietnamese military construciton program (under contract to an American architectural-engineering firm).

As a taxpayer and citizen I am concerned about the way our tax money is spent and submit the following random comments based on my experience in Vietnam to bolster, and encourage, your fight on behalf of the American taxpayer.

1. There are more than enough American military personnel there to adequately administer the military program. The reason that the program has been and is poorly administered stems from top echelon policies established by the Pentagon and/or the civilian foreign aid bureaucracy in Washington. For example, I found that the American military advisers dared not inquire too closely about known misappropriation of funds. The reason could be that they as individuals are operating a high school popularity contest or, they have had orders from their superiors to turn their backs to the graft and corruption.

2. On two or three occasions I reported to military advisers the theft or misappropriation of building materials but as far as I could determine the information was never passed on to higher echelons. Much of this material was going to the Catholic Church (during the Diem regime) and political officials—rather than to hospitals and living quarters for enlisted personnel.

3. Enlisted personnel and the people generally have no more respect for the military officer corp than they had for Diem and his cronies—which probably accounts for the lack of enthusiasm in carrying on the war.

4. Civilian contracts, many of which had at least some merit, were canceled to create slots for more American military advisers who either from lack of the proper training, or tradition, accomplished little or provided no concrete help to the Vietnam military or to the civilian economy.

5. Heavy construction equipment costing millions of dollars was sitting idle in warehouses and compounds—while thousands of our military sat around shuffling paper or did nothing. I would suggest that if the military must be in these areas that a "Seabee" type of corp be organized and utilized to provide some real help to the civilian economy.

6. Far too many radio and communications contracts have been let—these people are falling all over one another and creating nothing but confusion.

As I see it, there are four "vested interest" groups who are largely responsible for continuing the program in Vietnam—and other like areas. They are: the American military, the foreign aid bureaucracy, American industry (particularly the war industry), and the private capital boys. I do not suggest that the voices of these American citizens not be heard or considered but I do say that their present voices are being considered out of proportion to their numbers and against the present and long-range interests of the American people.

I have long been of the opinion that nationalism is a stronger force than ideology and I have little fear that simply because these countries adopt a "leftist" type of government that they will combine against us. History makes clear that Catholics have fought Catholics, Protestants have fought Protestants, republics have fought republics, and kingdoms have fought kingdoms—and witness the present difficulties between Russia and China.

The Honorable WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORSE: Speaking for myself and other GI's, we take our hats off to you

on your stand concerning the Vietnam situation.

You seem to be the only one that is making any sense on this issue, and cannot understand why others, in the Government, oppose your suggestions. Probably they are the conservative, quiet type who dare not speak up against the war in Vietnam. To say anything against it seems to be inviting brickbats.

I believe that you have the support of many enthusiastic Americans in your crusade. We need more men of integrity in public office.

Admiringly yours,

———, ———.

Mr. MORSE. Mr. President, all the letters I have placed in the RECORD from time to time are in the files in my office for the inspection of any Senator, and for the inspection of the President of the United States, if he wants to have them sent to him.

I shall be adding to this list of letters a large number in the next few days. The Senator from Alaska put some 50 letters in the RECORD yesterday. In the next few days I shall put more in the RECORD. If I do not obtain unanimous consent to place them in the RECORD, I shall be delighted to read them, because every Senator should understand that our boys are not for the war in South Vietnam. Our boys are not being protected by the U.S. Government. Their lives are not being protected by the operations the Government is conducting there.

Read the letters. What kind of protection is given to an American pilot in a helicopter sent out over the battlelines in the jungles of Vietnam, with no more protection than the helicopter?

That is why these officers come to me. I wish the administration could have the benefit of what the officers say. It is not a formal war, but we are engaged in a military operation in South Vietnam. It is neither fish nor fowl. We are conducting a military operation in which we are denying American boys the protection they would have if we were really in a formal war. It cannot be justified. It is the unjustifiable killing of American boys. Every American boy who has been killed in the war in South Vietnam has been unjustifiably killed; and his blood is on the hands of the U.S. Government.

It is not pleasing to me to have to speak in such criticism of my Government, but I will not be silenced, for I know my Government is wrong.

I close by calling the attention of the President of the United States to article I, section 8 of the Constitution of the United States, setting forth the powers and authority of the Congress of the United States in regard to war. It reads in part as follows:

> The Congress shall have power * * * to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

There is not a line in the Constitution of the United States that authorizes any President of the United States, at any time, to send the flag standing behind the Presiding Officer into a battlefront, followed by American boys, to die under that flag, without first declaring war.

The operation of the United States in South Vietnam is an illegal, unconstitutional operation. It cannot be justified by the President of the United States.

I call on him again, from the floor of the U.S. Senate, to send to Congress a declaration of war resolution, and let it be debated in Congress. Let Members of Congress be counted, as to whether or not they want to declare war in South Vietnam, to officially and legally send boys to their death in that war, and let the American people make their accounting of that kind of vote.

Mr. President, the Constitution cannot be torn. One cannot ignore the Constitution, even if he sits in the White House. The Commander in Chief is as liable under that Constitution as is anyone else.

I will not countenance the war in South Vietnam by remaining silent in the Senate. There has been too much silence in the Congress on the unconstitutional war in South Vietnam. There has been too much silence in the Congress about the unjustified slaughtering of American boys in South Vietnam.

We hear talk to the effect that this part of the world will go down to communism if we do not kill some more American boys in South Vietnam. Tell it to the American people. If the American people were allowed to vote in a referendum on this issue, the vote against the unjustifiable killing of American boys in South Vietnam would be, at a minimum, 5 to 1 against it. I believe the vote against it would be larger than that.

I repeat what I have said before. I have never made a criticism of American foreign policy, and I never will, without offering what I think is a more acceptable substitute. I repeat—and we shall have to repeat these elementary truths and facts—that the Government of he United States stands at this hour outside the framework of international law in South Vietnam. We cannot point to a single principle of international law that justifies American intervention in South Vietnam, but we have some international law obligations. We signed the United Nations Charter. We have a clear obligation to file a complaint with the United Nations if any country, or any group of countries, is violating international law and threatening the peace of the world.

The alibi of the Secretary of State, and the alibi of McNamara in defense of McNamara's war, is that the Geneva agreement of 1954 is being violated. The United States did not even sign it. The United States is not even a signatory to the Geneva agreement. South Vietnam did not sign them. South Vietnam is not a signatory to it.

I will tell the Senate what our international law obligation is. We said, as observers at Geneva, that we would recognize the principles of the Geneva accord as setting out principles of international law. So we are now saying that North Vietnam, possibly Cambodia, and possibly Red China, are violating the Geneva accord. South Vietnam is, too, with our help. If that is true, the violation is a threat to the peace. If there is a threat to the peace, the United Nations Charter ought to be put to work, and the United States ought to be before the United Nations with a resolution asking the United Nations to take jurisdiction and set up a peacekeeping corps in South Vietnam, separating the two sides that are making war, serving notice in that part of Asia that the United Nations is going to maintain the peace.

The President of the United States is calling for the flags of other nations. I say to the President that there is only one flag call he ought to be uttering. He ought to be calling for having the United Nations flag go to South Vietnam and have us support the maintenance of a peacekeeping corps in South Vietnam—for the maintenance of peace, not for the maintenance of war, but for bringing peace to bear in South Vietnam, as we support the United Nations operation in the Congo, as we support the United Nations operation in the Middle East, and as we support the United Nations operation in Cyprus—three other places where the peace of the world has been threatened. We are following a proper course in those places, because we are acting within the framework of international law. In South Vietnam, by unilateral military action, without authority from the United Nations, without any right under international law, the United States is making war. Secretary McNamara admits it. Secretary McNamara admitted the other day that he was perfectly willing to accept the situation as McNamara's war. He is perfectly willing to accept it as a war involving the United States, but it is an illegal war.

Until the President of the United States sends to Congress a declaration of war resolution, and that resolution or declaration is passed by Congress, in keeping with the Constitution, there is no justification, legally, or morally, for allowing a single American boy to be killed in South Vietnam.

I say to the American people: "Give this administration your answer."

I say to the American people, "Make clear to this administration that you want to stop the killing of American boys in an unnecessary and unjustifiable involvement of the Government of the United States in an illegal war."

I say to the American people, "Tell this Government to get back within the framework of international law, and stop a course of conduct that amounts to international outlawry." For that is the present program of the United States in South Vietnam.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the amendment of the House to the bill (S. 1605) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to provide for labeling of economic poisons with registration numbers, to eliminate registration under protest, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 1341) for the relief of Gabriel Kerenyi, and it was signed by the Acting President pro tempore.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. JOHNSTON. Mr. President, twice before I have stood in the U.S. Senate to oppose attempts to abolish the right of trial by jury in criminal cases. Each time I have spoken on this subject I have thought of the terrible sacrifices and hardships that people went through over many hundreds of years to achieve this almost God-given right. The very thought of abolishing the right of trial by jury frightens the minds of those who understand the legal processes and the Constitution of the United States.

Mr. President, we are being asked in the U.S. Senate to compromise the American citizen's constitutional right of trial by jury and we in the U.S. Senate have no right to even consider such a compromise. We swore to uphold and defend the Constitution of the U.S. Government and those who seek to abolish or weaken the guarantee of trial by jury in all criminal actions seek to tear up a part of this Constitution and are not, in my opinion, upholding their sworn duty.

First the writers, whoever they were, of the civil rights bill before us sought to completely eliminate trial by jury in criminal contempt proceedings. Now sponsors of the amendment before us are attempting to compromise the previously held position by stating that we shall guarantee trial by jury to everyone in criminal contempt proceedings except where the fine is 30 days or $300 or less.

Mr. President, the Constitution itself says in as plain language as can be written in English that all criminal prosecutions shall be tried by a jury, as pointed out by Mr. Justice Goldberg and Mr. Justice Douglas in their dissenting opinion as recently as April 6 of this year in the case of United States against Ross R. Barnett.

The Constitution, for those who may not have read it recently, states in article III, section 2, clause 3:

> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Mr. President, how clearer can the English language be than it appears in our Constitution when it says, "shall be by jury"? This seems to be as explicit and as final as even death itself. There is no possible means to get around this language without utterly disregarding the Constitution. The practice of fining a man for contempt of court without a trial by jury is a judge-instituted, a judge-invoked, and a judge-enforced abridgement of the Constitution of the United States, and the U.S. Senate has no business fostering and furthering such practice in our halls of justice.

It is obvious that the Supreme Court will, as Justice Black has urged, throw this practice out "root and branch." In the meantime, the Senate of the United States should not allow this unfortunate and unconstitutional practice to be spread.

I said before, and I say again, that this is eating away at the Constitution and is a taking over by the Federal Government of certain rights which belong to the people and to the States. It is like termites eating away the foundation of a house. If this process continues, we shall find, in the not-too-distant future, all the privileges and rights given to the American people eaten away, by act after act of Congress.

I want to go into the case of the United States against Ross B. Barnett. In the footnote of the majority opinion delivered by Mr. Justice Clark, it is stated:

> Some members of the Court are of the view that, without regard to the seriousness of the offense, punishment by summary trial without a jury would be constitutionally limited to that penalty provided for petty offenses.

This dictum by the Court simply means that the judge is placed in the ludicrous position of having to guess, first of all, whether a person has been guilty of a petty offense or not before he can determine whether or not to give the individual a trial by jury, all of which means the man is going to be tried in the mind of the judge before he is even offered a right of trial by jury. There is no specification as to what a petty offense is in criminal contempt, and we therefore leave our judges and the justice of the people at best in the middle of a great penalty guessing game. It is ridiculous, absurd, and again I say, unconstitutional to the core.

Getting back to the amendment before us, why—I ask why should a man fined 31 days for criminal contempt get the constitutional right of trial by jury while a second man, fined 30 days for the same offense, be deprived of this constitutional guarantee? Because of 1 day's difference in the fine we are going to give one man what the Constitution says is rightfully his and take away what is rightfully another man's. This is the worst form of discrimination in the world.

I ask any Senator, if he were a judge, to imagine someone coming before him under such a contempt charge. Would he not, as a judge, if he wished to dispose of a case quickly, decide in his mind that he would give the defendant 30 days, and in that way deprive him of the right of trial by jury? Sponsors of such proposals are taking away the most precious constitutional right an American citizen has in order to pacify the thundering mob in the street. Who would be advocating it if that were not so? Roman civilization fell because leaders turned a deaf ear to right, to law, to order, and listened to the thundering mob. In this instance, the U.S. Senate, if it compromises the smallest, minute part of this constitutional right of trial by jury, will be removing a foundation stone upon which this Nation was built. One compromise leads to another, and once the process is started no one in this Hall of Congress can say when or where it will stop, until some day Congress has turned over to the judges all of its authority and all of the rights of the people.

Mr. President, at this point in my speech I wish to read to the Senate the dissenting opinion of Mr. Justice Goldberg, in which the Chief Justice and Mr. Justice Douglas joined, in the case of the United States against Ross R. Barnett, and the dissenting opinion of Mr. Justice Black, with whom Mr. Justice Douglas joined.

Before reading the opinion by these members of the Supreme Court, members of the Supreme Court were so divided in regard to a matter so sacred to the people of the United States, do not Senators believe that we should at least not go forward with the taking away of the rights of the people?

Mr. Justice Goldberg, with whom Chief Justice Warren and Mr. Douglas joined in the dissenting opinion, wrote these words. They are the words, actually, of these three Justices of the Supreme Court, speaking to the people—not only speaking to the Senate, but to all 190 million people in the United States.

> In response to the certified question, I would answer that defendants have both a statutory and a constitutional right to have their case tried by a jury.
>
> A. THE STATUTORY RIGHT TO A JURY TRIAL
>
> Defendants claim that 62 Stat. 844, 18 U.S.C. 3691, entitles them to a jury trial in this case. That statute provides in relevant part that "the accused, upon demand therefor, shall be entitled to trial by a jury" whenever the alleged contempt "shall consist in willful disobedience of any lawful writ, process, order, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any act of Congress * * *," except if the alleged contempt is "committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States." The statutory right to a jury trial thus turns on three essential factors: (1) the source of the order; (2) the nature of the alleged violation; and (3) the character of the party that "brought or prosecuted" the "suit or action." I conclude for the reasons stated below that the district court was the source of the basic order in this case; that the nature of the alleged violation would make it a criminal offense uner 74 Stat. 86, 18 U.S.C. 1509; and that the "suit or action" in the case was brought and prosecuted not by the United States, but by James Meredith, a private party. It follows that defendants have a statutory right to be tried for their alleged contempt by a jury of their peers.
>
> *1. The source of the order*
>
> The show-cause order entered by the court of appeals on January 4, 1963, specified three