

APPENDIXES

APPENDIX A

LAW OFFICES,
BLOCH, HALL, GROOVER & HAWKINS,
Macon, Ga., February 20, 1960.

Mr. WILLIAM R. FOLEY,
General Counsel, Committee on the Judiciary,
Old House Office Building, Washington, D.C.

DEAR MR. FOLEY: I have received yours of February 18, have made certain corrections, and return the copy of the testimony herewith.

At page 54, Representative Chelf asked me what percentage of the registered voters in Bibb County, the colored registered voters, are between the ages 18 and 21. I told him that I didn't know, but that I would try to find out.

Upon inquiry yesterday from Mr. Dan D. Dunwody, our tax commissioner, I find that as of October 28, 1959, there were 22,029 white registered voters, and 4,351 Negro registered voters in Bibb County, Ga., of which Macon is the county seat. How many of those are between the ages of 18 and 21 could be determined only by a tabulation of the cards, one by one. If the gentleman of the committee still desires that done, I am sure that our tax commissioner would be glad to do it.

At page 80 you will notice that I was granted permission by the chairman to insert into the record anything that I wanted to concerning so-called precedents under the antitrust laws. I have not yet had the opportunity to prepare that memorandum. How long do I have to get it to you?

At page 121 of the record, Congressman Meader said: "Let me ask you if you wouldn't add, 'It is a judicial determination and not a legislative determination.'" The Congressman went on with a statement of a couple of sentences and when I started replying, I didn't answer his question specifically. I should like to add on page 121, just before my words: "There is another subparagraph of that article * * *" the following: "That should be for the judiciary to determine." And I should like to add as a note supporting that statement the following:

"See *Kilbourn v. Thompson*, 103 U.S. 168; *U.S. v. Carolene Products Company*, 304 U.S. 144, 152 holding: 'that a statute would deny due process which precluded the disproof in judicial proceedings of all facts which would show or tend to show that a statute depriving the suitor of life, liberty, or property had a rational basis.' See also *Bandini Petroleum Co. v. Superior Court*, 284 U.S. 8; *Morrison v. California*, 291 U.S. 82.

"'Congress cannot enlarge Federal judicial power even to suit wants of commerce, nor for more convenient execution of its commercial regulation.' *The Belfast*, 74 U.S. 624; the *Genesee Chief*, 12 Howard 443. 'Congress cannot bring under the judicial power a matter which, from its nature, is not a subject for judicial determination.' *Murray v. Hoboken Land Co.*, 18 Howard 272."

I call your attention to the fact that at page 131 a request was made by Congressman McCulloch that I be given an opportunity to submit a statement with respect to some amended drafts within a time fixed by the chairman. I do not find that any time was so fixed. I have not received the amended bill. Mr. McCulloch handed me a rough draft of one of them. What time do I have within which to prepare that statement?

Further, in response to Representative Meader's question at page 121 of the record, I call attention to the case of *McCutcheon v. Smith*, 199 Ga. 685, which is one of the leading authorities in Georgia, with respect to an attempt by the legislature to perform a judicial function by construing a law. It supports the correctness of Mr. Meader's statement: "The finding that a particular act or practice has occurred is a judicial function, not a lawmaking, legislative policy-making function."

Sincerely yours,

CHARLES J. BLOCH.