

the second amendment only forbids Congress so to disarm citizens as to prevent them from functioning as State militiamen. If this statement accurately reflects the prevailing law, it follows that any act of Congress which does not in fact prevent an eligible citizen from functioning as a State militiaman is not proscribed by the second amendment.

Manifestly, Mr. Chairman, nothing in the Constitution prevents enactment of title X. I hope the discussion by members of the Judiciary Committee of H.R. 2516, as amended by the Senate, has been helpful to this committee. We certainly want to do all we can to aid the committee in the understanding of the intricate provisions of this act.

I am ready for any questions.

The CHAIRMAN. Mr. Anderson.

Mr. JOHN B. ANDERSON. Mr. Chairman, have you or any member of your staff made a summary of the total number of changes in H.R. 2516 as it passed the House?

Mr. CELLER. We summarized the changes.

Mr. JOHN B. ANDERSON. Is it possible to give a numerical value to those changes?

Mr. CELLER. If you wish, we will be glad to submit that to the committee.

Mr. JOHN B. ANDERSON. Am I correct, Mr. Celler, in going back to the act which passed the House in 1966, that title IV of that act was primarily based on the commerce clause of the Constitution? As I recall, in that bill we included an open housing provision that was pretty well tied to people engaged in the business of selling. It was on the basis of commerce that we enacted that provision. Isn't that largely true?

Mr. CELLER. That was correct. In addition, it was based also on the 14th amendment.

May I ask at this point—the gentleman from California at my side has made a study of this particular title—that he be permitted to answer that also?

Mr. CORMAN. I have nothing to add to the answer.

Mr. JOHN B. ANDERSON. I would be happy to hear from either the chairman or Mr. Corman because I have seen some analysis that suggests that there is a considerable difference in these two bills in that the 1966 act was based primarily on the commerce clause, whereas in this bill we include every single dwelling with the exception of the exemptions provided for the homeowner if he does not retain the services of a broker, or if he does not use discriminatory advertising. Other than those exemptions, every homeowner is covered as I understand the provision of title VIII.

Isn't this based entirely, as far as constitutional bases are concerned, on the 14th amendment?

Mr. CELLER. I would say on the 14th amendment and the commerce clause both.

Mr. JOHN B. ANDERSON. How do you bring the commerce clause in?

Mr. CELLER. Because this title is like the public accommodations provision in the 1964 act which was held constitutional in the Federal courts.