

Mr. JOHN B. ANDERSON. I am talking about the individual homeowner. You are not relying on the commerce clause to validate the law with respect to him, are you?

Mr. CELLER. Yes. The case can be established on the basis of the commerce clause and on the basis of the 14th amendment.

Mr. JOHN B. ANDERSON. That is what I don't quite understand. If anybody can offer me any enlightenment, I would be delighted to have it.

The CHAIRMAN. I think it would be better if we followed the orderly procedure. Mr. Corman is going to speak later. However, I am not going to object if the gentleman would like to pursue this at this time. Go ahead. The Chair rules that you may.

Mr. CELLER. I would be glad to read a statement made by the then Attorney General, Mr. Katzenbach, before the House Judiciary Committee on the Civil Rights Act of 1966 in reference to housing. Among other things, he said:

These are the human terms in which the Constitution speaks and cries out for quick response. There are also economic terms. The Congress is charged with the protection and promotion of interstate commerce in all its forms. I can not doubt that housing is embraced under this Congressional power. The construction of homes and apartment buildings, the production and sale of building materials, home furnishings, the financing of construction and the purchases, all take place through the channels of interstate commerce. When the total problem is considered, it requires no great problem for the imagination to conclude that interstate commerce is significantly affected by the sale even of single dwellings multiplied many times in such community. It was almost 30 years ago that the Supreme Court faced and received this problem in *Wickard vs. Filburn*. In that case the Court held that the Agricultural Adjustment Act validly applied to a farmer who sowed only 25 acres of wheat, almost all of which was consumed on his own farm. The housing industry last year represented \$27.6 billion of new private investment. This expenditure on residential housing is considerably more than the \$22.9 billion which all American agriculture contributed to the gross national product.

There were other arguments.

Mr. JOHN B. ANDERSON. This is an Attorney General's opinion that you are reading from?

Mr. CELLER. Yes, sir.

Mr. JOHN B. ANDERSON. I am trying to see what the difference is between the 1966 act and the present act as far as constitutionality is concerned, because I was informed by one analysis that I read that you are now relying largely on section 5 of the 14th amendment to reach so-called private acts of discrimination, and that you are not relying on the commerce clause as you did in 1966 when you talked largely in terms of people engaged in selling.

I can understand how you apply the commerce clause to subdividers and developers. But restricting my question to the individual homeowner, what is the precise basis there? The fellow who just has one house to sell, not the developer, builder or realtor, but the fellow with one house to sell who doesn't sell more than one?

Mr. CELLER. Single family owner is exempt in this act, particularly if he resides in it.

Mr. JOHN B. ANDERSON. Not if he hires a realtor?

Mr. CELLER. No. Not if he hires a realtor.

Mr. JOHN B. ANDERSON. So let's take that one case, then. What is the basis? Is it the fifth section of the 14th amendment?