

Rights do not exist in the air. Rather, they exist between legal entities. The 14th amendment establishes that relationship between State and citizen. It does not address itself to the question of how one citizen should treat another.

I conclude, Mr. Chairman, that the 14th amendment to the Constitution does not authorize the Federal Government to prohibit acts of private discrimination unrelated to governmental activities, and that there is no showing that interstate commerce is affected by the conduct sought to be regulated in this bill. In its present form, therefore, the bill is most probably unconstitutional.

To those who cry in despair, "Something must be done to end bigotry in America," we should answer, "The Congress agrees, but look to your State government."

And if the reply is heard that State government is not responsive to the needs of the people, we should have the courage to say, "Change the policies of your State government."

The Constitution guarantees to all Americans equal political power to affect the actions of their Government. Congress has appropriately implemented that power by legislation. It is the political power thus created—rather than raw force—which must be the vehicle to accomplish social change.

If Congress preempts powers properly reserved to the States, State government and the federal system as a viable structure shall die. I view private acts of discrimination as no greater evil than the emasculation of the federal system contemplated in this bill.

Thank you again for the privilege of testifying.

Mr. MADDEN. Congressman Wiggins, I personally haven't made any exhaustive study regarding the constitutionality of this legislation, but have you read over the Senate hearings on this legislation when they were held last August over in the other body?

Mr. WIGGINS. Yes; I did, sir. They had the whole title on the constitutionality in the Senate hearings. I read the Senate report, rather than the hearings themselves.

Mr. MADDEN. Of course, as I say, personally I haven't gone into the constitutionality of this legislation, but the hearings were held over there on the constitutionality of the fair housing provisions of H.R. 2516 based on the 14th amendment and the commerce clause in the Constitution, and the Supreme Court decisions in other civil cases.

You mentioned the *Atlanta Motel* case. In my mind, from the hearings that I read, they leave little doubt regarding the constitutionality of the fair housing angle of this legislation.

Further, during the Senate hearings on fair housing last August, a variety of qualified witnesses, lawyers, testified on the constitutionality of this law. The U.S. Attorney General, Ramsey Clark, said that there is no doubt whatsoever about the constitutionality of this proposal.

In the Senate hearings on page 7 of his testimony, he also testified to the constitutionality of the open housing legislation with the deans of three major law schools, Rev. Robert F. Drian, Boston College Law School; Joseph B. Fordham of the University of Pennsylvania Law School; and Louis H. Pollock of the Yale Law School. Those hearings and that testimony start on page 127 of the Senate hearings.

The constitutionality authority of the Congress to enact fair housing legislation was confirmed by a committee consisting of some 30 con-