

stitutional lawyers and experts, scholars, and this committee of 30 lawyers was headed by Sol Rabkin of the Anti-Defamation League.

My personal opinion is, considering the testimony of the Senate hearings from distinguished legal authority like this, that there is no doubt regarding the constitutionality of this legislation.

Mr. WIGGINS. I appreciate the gentleman's comment. I can only say that I respectfully disagree with you and with the gentleman you cited in support of your position.

I will say this: that for this bill to be constitutional, two facts have to exist. Point 1: The dictum in the *Guest* case has to be the law of the land. I am not willing to say that it is. The Supreme Court has not said that it is. I would hope that the Supreme Court would never reach that conclusion in a holding because it would be a strained construction of section 5 of the 14th amendment to say that appropriate legislation means any legislation.

Point 2: For this legislation to be constitutional, it will have to reach only commerce, and the legislation is not drafted in that way. Its reach is beyond commerce or even things that affect commerce.

I suspect that the Judiciary Committee of the Senate has carefully omitted the language which would confine it to commerce. There are the only two sources of constitutional authority. If they are not true or if they are not present, the bill is unconstitutional.

Mr. MADDEN. In view of the testimony before the Senate committee regarding these experts, including the Attorney General of the United States, you are not opposed to having the Rules Committee adopt this resolution and let the members decide on that?

Mr. WIGGINS. No, sir. It is not my purpose here to suggest that this committee should bottle it up.

Mr. MADDEN. If it should be unconstitutional, the courts can take care of that, don't you think?

Mr. WIGGINS. No; I do not agree that Members of Congress should not concern themselves with constitutional questions.

Mr. MADDEN. That is true. If your contention is correct, it could be corrected by the courts?

Mr. WIGGINS. Yes, and I hope that if this body, in its eminent wisdom, passes the bill, it will be corrected by the court.

Mr. SMITH. I would like to commend the gentleman for his statement. I have had the opportunity of working with him on some matters, in redistricting and other constitutional questions. I know him to be a very able lawyer and I know he has spent some time on this. I commend the gentleman for his interest in it.

Do you think the problems you raise can be corrected by court, or should they be corrected in a conference? Do you have any thought on that?

Mr. WIGGINS. Yes, sir. We in Congress should never pass a bill that is tainted with unconstitutionality if it can be corrected here. I would like to see a conference correct not only the constitutional issues that I have suggested. I haven't even discussed the fact that the bill is drafted in such a way that it is hardly a credit to the Congress. It really ought to be cleaned up, in my view, in conference before it becomes law, if it is to become law.

Mr. SMITH. You are in support of civil rights legislation?