

Mr. LATTA. I have no questions. I want to join my friend from California in commending Mr. Wiggins on what I think is one of the most scholarly statements that I have had the privilege to look at since I have been on this committee.

The CHAIRMAN. Mr. Young?

Mr. YOUNG. No questions. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Pepper, you are a great constitutional lawyer?

Mr. PEPPER. I don't have that capacity. I would like to ask the gentleman one or two questions.

Under the Constitution, all persons born or naturalized in the United States are citizens of the United States and of the several States in which they reside. So all of these people who are the proposed beneficiaries of this legislation, presuming that they were born in the United States, are citizens of the United States as well as of the several States in which they reside.

What would the able gentleman—you have made an able statement of the matter—say if it came to the knowledge of the Congress that all of the white people in this country had adopted a practice and there was sort of an agreement to that effect not to sell any food to any citizens of the United States who were Afro-Americans in descent?

Would there be any authority on the part of Congress under the national defense to preserve the health and potential of soldiers or otherwise? Would there be, in your opinion, any authority on the part of Congress to prevent such action?

Mr. WIGGINS. I don't think that there would be any question about the power of Congress to respond to that situation.

Mr. PEPPER. Do you think Congress could act?

Mr. WIGGINS. Yes, I think the Congress authority extends that far.

Mr. PEPPER. Then your question about Congress acting in this case is a matter of degree. You don't think housing is sufficiently comparable and important to food to authorize Congress to act in the housing case when you think it could act in the food case?

Mr. WIGGINS. No. Let me make that distinction. I think it is possible for housing, some housing at least, to be involved in commerce. I am saying that this bill, however, purports to go beyond. I am also prepared to say that some housing is not involved in the flow of commerce. This bill reaches all housing.

I am mainly concerned with the fact that it goes beyond the thrust of the commerce clause. Distinguish that from food. Food is a steady stream from market until it is consumed. It does not attain a situs the way real property has a situs.

I think the factual distinctions are clear and would not bother the Court; nor should it bother this Congress one bit to say that food, all food, is a part of commerce. Indeed, as you know, in the one case cited, food homegrown by the farmer and consumed by the farmer, fed to his own chickens, which he ate himself, was deemed to affect commerce. That problem wouldn't bother me at all, sir.

Mr. PEPPER. Yet in housing, wouldn't it be probable that in nearly every house there are some ingredients that came into the area where the house is built that came across State lines; nails, or something that went into the house?