

even worse, individuals who are giving comfort and aid to our enemies are not brought before the bar of justice on the charge of treason. If we are to preserve our Nation, if we are to have domestic tranquility, we can no longer afford to act from fear or emotionalism, but must revive the rule of law under the Constitution and the Bill of Rights and see that those who transgress are properly brought before the bar of justice.

There is little doubt, in my mind at least, but that the advocacy of civil rights disobedience has permeated the minds of a great many of our people to the extent that they believe that there is such a thing as civil disobedience. Such, of course, is not the case. All disobedience of law at whatever level of Government, is criminal disobedience.

Great injustice has been done to a vast segment of our people by those who preach "civil disobedience," because they are not sufficiently able to understand that we are a nation and a government under the rule of law. This emotionalism has been built up into proportions that are startling and frightening and unless our public servants meet the challenge with firmness and dedication to the principles of our Constitution and Bill of Rights we will lose those rights for which our forefathers gave their all. Hence, it seems to me, that some thought should be given to classifying those who openly break the law in the same category as Communists, Fabian Socialists, black power advocates, and others who have by their own pronouncements advocated treason and who have given aid to our enemy in so doing.

I have heretofore suggested to this distinguished committee a matter that is a disgrace in the time and effort and money that is constantly being spent to try to repair the damage done by the irresponsibility of a majority of our Supreme Court. Since the Constitution expressly lodges in the Congress the sole authority to determine the appellate jurisdiction of the Supreme Court and since this distinguished committee has labored so long and faithfully in trying to cure cases that have been handed down by a majority of the Court from time to time in disregard of the expressed intentions of the Congress and hence the people, and since the majority of the Court have proven by their irascible conduct that they have no conception of that which Jefferson called the greatest facet of our form of government under the Constitution, to wit: the division of powers among the three departments of government, it would seem to me that the committee should seriously consider adding to H.R. 15626 a restriction upon the Supreme Court as to its appellate authority and require that no decision signed by less than three-fourths of the Court shall be effective or lawful or controlling unless the majority decision has the ratio of signatures above suggested. We have precedence for this ratio by reason of the machinery set up in the Constitution itself for amending the Constitution.

We can no longer close our eyes and be complacent about the fact that ideological decisions and predilection of certain members of the Court have blinded the Court to its responsibility to interpret the law and to interpret the Constitution and Bill of Rights, giving full meaning to the words and provisions thereof as when written. And if I were privileged to write such a provision, I would further provide that no case heretofore handed down by the Court with less signatures than provided herein as being requisite to a valid determination, should constitute a precedent.

A law is not self-operating. The climate of a government often influences official acts of the judiciary, as well as administrative bodies. I append hereto a photostatic copy of a document that is inconceivable to me—a proposed precedent change in the Department of Defense.¹

It is such a change from the concept of an open society as to be unbelievable. It constitutes an invasion of the rights of those engaged in our free enterprise system and, if continued, will cripple industry in protecting our national security.

Mr. Chairman, I appreciate the privilege of making these comments as an American citizen and as one who has devoted a great many years to the practice of law, who believes that our system of government and of law is the best ever conceived, and who is worried about the complacency of both the Congress and our people over the trends of events. I wish to compliment the committee wholeheartedly and express the hope that the committee and the Congress will pass H.R. 15626, and also express the hope that my feeble efforts in pointing out certain suggestions hereinabove maintained may stimulate some thoughts that will

¹ DoD Industrial Security Letter, Feb. 29, 1968. See appendix, part 2, pp. 1807-1813.