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No. 136

Senate

(Legislative day of Monday, July 8, 1957)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O God, before whom our little span of years is like the brief shining of a candle, while it yet burns we would yield our flickering torch to Thee, that in Thine hands the flame of our lives may be part of the light that glows in the darkness.

Thou hast made this earth so fair and given it to all men richly to enjoy. Help us never to grow dull to all its wonders nor lose the mystic luster of the changing pageant of earth and sky and sea. Above all, may no blighting acids of disillusionment or cynicism blind us to the glory of our common humanity as the splendor of it flames in the warmth of human fellowship, in the sacrament of love and friendship, in the trusting innocence of adorable children, and even in the weak who need the buttressing of our belief in them, and in the strong, who give us of their strength. We thank Thee for dauntless souls who, in spite of persecution, postponement, and bitter cost, have followed the gleam of brighter and better days.

Join us to the seers and prophets of the past who have gone ahead of the crowd to climb the beckoning hilltops of humanity's highest hopes.

In the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Journal of the proceedings of Tuesday, July 30, 1957, was approved, and its reading was dispensed with.

MESSAGES FROM THE PRESIDENT— APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Tribbe, one of his secretaries, and he announced that the President had approved and signed the following acts:

On July 24, 1957:

S. 44. An act to authorize the Secretary of Agriculture to exchange certain lands in the State of New Mexico;

S. 977. An act to suspend and to modify the application of the excess land provisions of the Federal reclamation laws to lands in the East Bench unit of the Missouri River Basin project;

S. 1361. An act to revive and reenact the act entitled "An act authorizing the Department of Highways of the State of Minnesota to construct, maintain, and operate a bridge across the Pigeon River";

S. 2212. An act to amend the North Pacific Fisheries Act of 1954;

S. 2250. An act to amend the act of August 5, 1955, authorizing the construction of two surveying ships for the Coast and Geodetic Survey, Department of Commerce, and for other purposes; and

S. 2420. An act to extend the authority for the enlistment of aliens in the Regular Army, and for other purposes.

On July 26, 1957:

S. 18. An act for the relief of Alessandro Renda;

S. 80. An act for the relief of Maria Adelaide Alessandrini;

S. 164. An act for the relief of John G. Michael;

S. 249. An act for the relief of Theodore Hegeman;

S. 250. An act for the relief of Kyu Yawp Lee and his wife, Hyung Sook Lee;

S. 251. An act for the relief of Edith Elisabeth Wagner;

S. 255. An act for the relief of Fumiko Shikanuki;

S. 256. An act for the relief of Aristeia Vitogianes;

S. 284. An act for the relief of Miyako Ueda Osgood;

S. 303. An act for the relief of Gaetano Mattioli Cicchini;

S. 307. An act for the relief of Noemi Maria Vida Williams and Maria Loretta Vida;

S. 308. An act for the relief of Maria Caccamo;

S. 368. An act for the relief of Jose Medina-Chavez (Joe Medina);

S. 526. An act for the relief of Tikva Polsky;

S. 530. An act for the relief of Shun Wen Lung (also known as Van Long and Van S. Lung);

S. 560. An act for the relief of Alec Ernest Sales;

S. 583. An act for the relief of Stanislav Maglica;

S. 592. An act for the relief of Anton Revak;

S. 615. An act for the relief of Josephine Ray;

S. 622. An act for the relief of Georgina Mercedes Liera;

S. 629. An act for the relief of John Eicherl;

S. 653. An act for the relief of Mrs. Elsie Hermine van Dam Hurst;

S. 767. An act for the relief of Christo Pan Lycouras Mauroyenis (Maurogenis);

S. 785. An act for the relief of Helga Binder;

S. 788. An act for the relief of Thelma Margaret Hwang;

S. 804. An act for the relief of Georgios D. Christopoulos;

S. 908. An act for the relief of Kuo York Chynn;

S. 973. An act for the relief of Yun Wha Yoon Holzman;

S. 987. An act for the relief of Leonardo Finelli;

S. 1083. An act for the relief of Maria Maniates;

S. 1192. An act for the relief of Irma B. Poellmann;

S. 1360. An act for the relief of Mrs. Geraldine Elaine Sim;

S. 1376. An act for the relief of Chong You How (also known as Edward Charles Yee), his wife, Eng Lal Fong, and his child, Chong Yim Keung;

S. 1566. An act for the relief of Arthur Sew Sang, Kee Yin Sew Wong, Sew Ing Lin, Sew Ing Quay, and Sew Ing You;

S. 1581. An act for the relief of Sheu Shel Lan and Chow Shong Yep; and

S. 1833. An act for the relief of Janos Schreiner.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

THE JURY-TRIAL AMENDMENT TO THE CIVIL RIGHTS BILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of my brief remarks, there may be inserted in the RECORD a statement

by one of the greatest constitutional lawyers and one of the greatest Senators this country has ever produced, the late Senator Thomas J. Walsh, of Montana, setting forth his position on jury trials; and also an article relative to the jury-trial amendment, as published in the New York Times of Sunday, July 28.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit A.)

Mr. MANSFIELD. Mr. President, of late, there has been considerable discussion of the so-called O'Mahoney-Kefauver-Church amendment. A good deal of that discussion has centered around the possible fate of those who might continue to disobey court orders.

There has been a general assumption that a court is helpless—without a jury trial—once election day has passed. I am informed by competent legal scholars that this assumption is simply not sound.

In *United States v. Mine Workers* (330 U. S. 258), at page 302, Chief Justice Vinson stated:

Sentences for criminal contempt are punitive in their nature and are imposed for the purpose of vindicating the authority of the court. *Gompers v. Bucks Stove & Range Co.* supra at 441. The interests of orderly government demand that respect and compliance be given to orders issued by courts possessed of jurisdiction of persons and subject matter. One who defies the public authority and willfully refuses his obedience, does so at his peril.

Judicial sanctions in civil contempt proceedings may, in a proper case, be employed for either or both of two purposes: to coerce the defendant into compliance with the court's order, and to compensate the complainant for losses sustained. *Gompers v. Bucks Stove & Range Co.*, supra, at 448, 449.

Mr. President, this is plain English. It says to me that one who violates the order of a court is subject to the full authority of the court to compel compliance.

And if the power of the court to compel compliance by a certain date—election day, for example—fails, the court can award damages to those who have sustained a loss. This would apply to a vote, as well as to any other loss. And all of this happens before the case gets anywhere near a jury.

Mr. President, it seems to me that we are debating a clear and simple issue. Under the O'Mahoney-Kefauver-Church amendment the courts would have full powers—short of the thumbscrew—to compel compliance with an order.

The one thing a court could not do would be to publicly brand a man as a criminal, without a jury trial.

It is my understanding that the O'Mahoney-Kefauver-Church amendment is an attempt to draw a clear distinction between civil and criminal contempt; to give a judge some latitude in deciding which remedy should be applied; and to assure the right of trial by jury in criminal contempts only. The amendment will not weaken the bill; in fact, it will strengthen the proposed legislation now before us, and at the same time will preserve a fundamental human right. In the words of the junior Senator from Washington [Mr. JACKSON]:

The right of trial by jury, just as the right to vote, is one of our traditional civil rights. And, like all civil rights, it is designed to shield the individual from the potential tyranny of the state. We need not be so fearful for the future of voting rights that we now endanger one civil right to guard another. The adoption of an appropriate jury trial amendment is essential if we are to prevent a piecemeal assault on the foundations of our legal system.

Mr. President, the Senate should not put in jeopardy one civil right, the right of trial by jury, in an attempt to guard and secure another civil right, the right to vote. There is, and there must remain, room for both under the Constitution of the United States. I shall support the jury-trial amendment.

EXHIBIT A

STATEMENT BY THE LATE SENATOR THOMAS J. WALSH, OF MONTANA

There is not an argument that can be advanced or thought of in opposition to trial by jury in contempt cases that is not equally an argument against the jury as we know it. * * *. Instead of being an attack on the court, the proposal to submit to trial by jury alleged contempts not committed in the presence of the court is a plan to restore to the Federal court the confidence and good will which the people ought to bear toward them, but which, unfortunately, by a liberal and sometimes inconsiderate exercise of the power to issue injunctions and to punish as for contempt, has, among certain classes of citizens, been all but forfeited.

[From the New York Times of Sunday, July 28, 1957]

The essential difference between civil and criminal contempt lies in what the judge is trying to do—whether he is seeking to force obedience or punish disobedience. In civil contempt the intention is remedial; in criminal the intention is punitive.

Civil contempt, traditionally, involves an effort by a judge to induce compliance with an order he has issued. The judge says, in effect: "I have issued an order. You are not obeying it. I am going to put you in jail until you do obey it." Lawyers often say that in such a case the defendant "has the keys to the prison in his pocket." A typical situation would arise if a judge issued an order preventing interference with voting rights and jailed a southern registrar who failed to register a Negro. The registrar could bring his stay in jail to an end at any time by deciding to comply with the order by registering the Negro.

Criminal contempt involves a move by the judge to punish someone for committing an irrevocable act or for an attitude which in the judge's opinion is an affront to the dignity of the court. The judge says, in effect: "You have violated my order, and to punish you I'm going to lock you up." In this instance the jail sentence is for a specific period, and the defendant has no control over it.

RIGHT OF JURY TRIAL

The question of whether a defendant in a contempt case is entitled to a jury trial is, as one lawyer said last week, "a confusing subject." Civil contempt is usually tried without a jury. So, also, are many cases of criminal contempt. Congress has added to the confusion by passing 28 statutes authorizing contempt trials without juries. But it has also passed laws requiring jury trials in contempt cases. This issue is the subject of learned arguments among prominent lawyers. * * * Says Senator O'MAHONEY:

The question which every Senator must ask himself when the time comes to vote upon this measure is whether he wants to take away the right of trial by jury from

American citizens, not whether he wants to give it in circumstances where it does not now exist.

DEATH OF FORMER REPRESENTATIVE NAT PATTON

Mr. JOHNSON of Texas. Mr. President, an honorable career of public service came to a close last Saturday with the death of former Congressman Nat Patton, of the Seventh Congressional District of Texas.

Mr. Patton served 10 years in Congress, ending January 3, 1945. Prior to his congressional service, he had been a member of the Texas House of Representatives, county judge of Houston County, Tex., and a member of the Texas Senate. He filled all these offices with distinction.

Nat Patton and I had offices near each other when I was a Member of the House. I knew him well. I respected his devotion to duty. I knew him as a man who was an affectionate family man, a faithful friend, a loyal American.

He numbered his friends in the thousands. To them he was always and simply "Cousin Nat," a term that denoted the affection in which they held this self-made man from East Texas.

Nat Patton's two sons have carried forward the tradition he established of public service. Weldon Patton, of Huntsville, Tex., is a former county judge of Walker County. Nat Patton, Jr., of Crockett, Tex., is now serving as county attorney of Houston County.

Mr. Patton is also survived by his widow, Mrs. Patton, of Crockett, Tex., and two daughters, Bessie Louise, wife of Joe Gus LeGory, of Crockett, and Bonnie, wife of Clyde Smith, of Washington, D. C.

Mr. President, I extend my heartfelt sympathy to these surviving members of the Honorable Nat Patton, a man I was privileged and proud to call my friend.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the bill (S. 939) to amend section 22 of the Interstate Commerce Act, as amended, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 1349. An act for the relief of John J. Fedor;

H. R. 1558. An act for the relief of Phillis Guyadeen;

H. R. 1636. An act for the relief of George D. LaMont;

H. R. 1663. An act for the relief of Dean E. Fosmoe;

H. R. 1678. An act to provide for the quitclaiming of the title of the United States to the real property known as the Barcelona Lighthouse Site, Portland, N. Y.;

H. R. 1684. An act for the relief of William Franklin Rollins;

H. R. 1827. An act for the relief of Annunziata Gambini and Tomazo Gambini;

H. R. 2354. An act for the relief of the estate of Leatha Horn;