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Guest (s): Senator Herman Talmadge (D-GA)

Title: 1957 Civil Rights Act, Court Decisions

Note: Questions were paraphrased and/or shortened by the transcriber. For the exact question, please consult the audiotapes.

Morphew: It appears the position that you and other southern senators took in 1957 is now being upheld by the federal courts in Macon, Georgia, which ruled that certain provisions of the CRA were unconstitutional...could you tell us something about that?

Talmadge: Yes, Dick, that case originated in Terrell County, Georgia, and was the case of the United States v. Raines. The district judge, Judge T. Hoit Davis (?), held that the injunctive features of the Civil Rights Act of nineteen hundred and fifty-seven were so broad that it authorizes suits against individuals as well as officials against state and local and county governments, and it held, therefore, that it was violative of the Tenth and the Fourteenth Amendments of the constitution of the United States. Of course, we argued that in the Congress in nineteen hundred and fifty-seven, but it was a political issue and feelings were so high that it didn't stand on constitutional grounds, they wanted legislation and they passed it regardless of the constitution. Now, I feel that that is one of the greatest victories for states rights and local self-government and protection of individual citizens that we have had in our country since Andrew Johnson vetoed the civil rights bill when he was president of the United States. The congress overrode Andrew Johnson's veto, it finally went to the Supreme Court of the United States for a decision and in a unanimous decision, United States v. Stanley, I believe was the name of the case, they held that that act was unconstitutional. Now unless our Supreme Court has been so brainwashed by psychological and psychiatric notions, I feel that they'll uphold Judge Davis if it get to them.

Morphew: Do you think this will further bearing on future civil rights legislation?

Talmadge: It certainly should, Dick, because it's clear evidence that legislation in that field is contrary to the constitution of the United States, but we must remember that these issues are politically motivated. Sometimes when politicians are seeking advantage, they don't permit the constitution of the United States to stand in their way to that end.

Morphew: You've proposed legislation that sets minimum qualifications for members of the SC, why do you think they should have such qualifications and what kind are you favoring?

Talmadge: I have proposed a series of bills, Dick, dealing with problems of that nature. The one you refer to is S880. Unfortunately, when our foreparents wrote the constitution of the United States, they assumed that all appointments to the federal courts would be from among the best lawyers in the country and they left a complete loophole as to the qualifications for appointees. For instance, if the president of the United States saw fit, he could appoint a high school student to the Supreme Court. He could appoint a carpenter or a shoemaker if he saw fit. He could appoint himself or he could appoint an alien. Unfortunately, in recent years, we have seen so many appointments on the United States Supreme Court of politicians and those who would change our social order and those who would change the meaning of the constitution of the United States, until the time has come when the people, if we are to protect our constitutional form of government, must take action and prescribe minimum qualifications for the Supreme Court justices. And toward that end, my bill is very simple. It holds that, it provides that prior to appointment to the United States Supreme Court, any man must have at least 5 years of judicial experience and that 5 years judicial experience is defined to mean 5 years judicial experience on the highest court of any state in the Union or 5 years judicial experience on the district or circuit court of appeals of the United States. Certainly that, to my mind, is the very minimum qualifications we ought to have for the highest tribunal in the United States of America.

Morphew: A lot of criticism of the SC has been coming out and not all of it has been coming from the south, what about this?

Talmadge: It certainly has not, Dick, and that is one of the most hopeful signs that I see. Normally, the bar association never gets involved in controversies that might be considered political or in anywise, critical of any court, yet, the American Bar Association has passed scathing resolutions in recent years regarding some of the decisions of our federal courts and their laxity toward communist conspirators in our country and in other matters. That's a very hopeful sign because we know the lawyers are the best-versed men in our country on constitution and legal matters. Perhaps even more important than that is the fact that the chief justices of all of the 48 states in convention-assembled, passed a resolution in California last year that the United States Supreme Court must realize that they are not a law-making body and must exercise judicial restraint. And the resolution was highly critical and it was supported by 38, I believe, of the chief justices of the states of America. Now, the resolutions committee that reported this resolution, as I recall, had the chief justice of Washington state and I believe, Michigan and I think Minnesota and New York state, and I believe, perhaps, New Jersey, Massachusetts, Maryland, and only 3 of the justices were from the South. And as I recall, 37 or 38 justices supported it, several were absent and only 8 opposed it. In addition to that, the American Farm Bureau has passed very strong resolutions and many other organizations of similar character. So the criticism of our court certainly is not limited to the South or to southerners. A good example of that, I think, was yesterday or recently,

the House of Representatives of our Congress passed for the second time in two legislative session, H.R. 3, which simply says that the Supreme Court or other federal courts will not invalidate acts of the state government on the ground that they have been ??? by federal authority unless the federal act is in clear conflict with the state act that it assumes to overthrow. That certainly has been the intent of the founders of our republic and the intent of our people for almost 200 years, and was the law up until we had sociologists on the Supreme Court who conceived it their duty to abrogate all authority unto themselves and to destroy state and local government and local laws.

Morphew: You are the author and sponsor of a constitutional amendment to give states authority over the public schools, how would you sum up public opinion on the question of whether we should have local self-government or government by decree?

Talmadge: Well, Dick, of course, we thought that the states had authority to operate their public school systems and they certainly did up until May the seventeenth, nineteen fifty-four, when the Supreme Court suddenly amended the constitution. Now, this is the first corrective legislation since that time more than 5 years ago that has reached the hearing stage. Fortunately, we had some of the most able lawyers and public officials from all over the United States come in and testify on behalf of that resolution. We built a strong affirmative record. I have received many thousands of letters and telegrams and newspaper editorials and comments from throughout the United States in support of that resolution. I am convinced the overwhelming majority of people in America believe that public schools ought to be operated by people on the state and local level, but you know, political considerations being what they are, they are fearful of offending some minority bloc vote group. It's going to be exceedingly difficult to get such legislation passed by the Congress and submitted to the states for ratification. I have high hopes that we are winning new converts to our cause though I certainly think that's true because I receive letters to that effect.

Morphew: So you think the matter is simply of informing and reaching everyone because they are in basic agreement already?

Talmadge: Exactly. In many areas of our country the question is academic and not real.

Morphew: Is there anything you think we can do?

Talmadge: I certainly do. I first want to commend the Citizens' Councils for making programs such as these possible that appear on 38 television stations, a hundred and thirty-nine radio stations in 37 states in the union, including Alaska. It's information that will win the fight. We must build up a force of knowledge among the people that counters the extremist views of extremist groups who want to change our form of government. The way to do that is to present the facts to the people, which you are doing.