

OFFICE OF THE ATTORNEY GENERAL

Washington, D.C.

August 9, 1957

Honorable Joseph W. Martin, Jr.  
U. S. House of Representatives  
Washington, D. C.

Dear Congressman Martin:

This is in response to your letter of August 8, 1957.

The Senate modified and passed the Civil Rights Bill (H.R. 6127) which, as amended, would require jury trials upon demand in all criminal contempt actions in all courts of the United States, including the Courts of Appeals and Supreme Court, except in respect to contempts committed in the presence of the court and by court officers. In addition, the Senate amendment would limit punishment of "natural" persons for wilful contempts to fines not exceeding \$1,000 and to imprisonment not exceeding 6 months.

You inquire in your letter as to the effect of this amendment. The practical effect, if adopted, will be to hamper not only the enforcement of the Civil Rights Bill itself, but also to make it much more difficult to enforce federal law and policy in other vital areas involving the public interest.

As you know, in criminal contempt cases there is no constitutional right to a trial by jury. In fact the Senate amendment contemplates a procedure which is contrary to traditional federal and most state procedures for vindicating the authority of a court resulting from a wilful disregard of its order.

The Supreme Court said in a unanimous decision in the Debs case (158 U.S. 564, 595):

"To submit the question of disobedience to another tribunal, be it a jury or another court, would operate to deprive the proceeding of half its efficiency."

In the later case of Gompers v. Buck Stove and Range Co., 221 U.S. 418, the Supreme Court in a unanimous decision by Mr. Justice Lamar said (p. 450):

"There has been general recognition of the fact that the courts are clothed with this power and must be authorized to exercise it without

