found him in high spirits and well on the way to recovery.

"Although he's covered in plaster from the chest down he will be out of his cocoon shortly after you get this letter. Some rest after that and he'll be in fine shape for dove season in California.

"I was certainly impressed with Steve's doctor. He's a fine gentleman reputed to be one of the best in Europe. At 36, he's second in command for this area and speaks seven languages just for the hell of it. We're going fishing together in the morning."

Incidentally I believe Dr. Stockton went fishing with the same doctor.

The foregoing favorable comment with respect to a touring group of Kern County high school students is a further apt reflection on a representative group of young people from my district and invites attention to a tour which is an annual event designed to better acquaint students with the virtues of America.

The tour is conducted annually by Mr. and Mrs. Marger Apsit, of Bakersfield. Mr. Apsit is a teacher in the Bakersfield high school system and is a former college and professional football player. I would recommend that other public-spirited citizens sponsor such tours. The young people participating return home with a better knowledge of their country and its history and institutions.

A Greeting to the National Rivers and Harbors Congress

EXTENSION OF REMARKS
OF
HON. GERALD R. FORD
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, August 3, 1965

Mr. GERALD R. FORD. Mr. Speaker, we are all familiar with the National Rivers and Harbors Congress and its endeavors. Many of us have attended its annual conventions and have been impressed with its dedication to the science of water use, control and conservation.

Our good friend the minority whip, LESLIE ARENDS, wrote a note of greetings on June 4 to Mr. H. H. Buckman, president of the Congress. Under leave to extend my remarks I include Mr. ARENDS' letter.

CONGRESS OF
THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 4, 1965.

Mr. H. H. BUCKMAN,
President, National Rivers and Harbors Congress, Washington, D.C.

DEAR MR. BUCKMAN: I extend to you and to all members of the National Rivers and Harbors Congress my personal greetings and a hearty welcome to our Nation's Capital.

Your contribution for the control and better utilization of our country's water resources, for the conservation of our farm and timber land, and for the preservation of the natural beauties, is a contribution beyond measure. More than any other single organization, you have brought about a national awareness of this rich heritage, not only to be used and enjoyed by us but to be so used that the heritage is enriched for those who come after us.

You have indeed accomplished much. But, knowing the National Rivers and Harbors Congress as I do, you are meeting here not in self-glory of what has been done but to explore what remains to be done.

My congratulations and best wishes for a most successful and enjoyable visit to Washington.

Sincerely,

L. C. ARENDS.

SENATE

WEDNESDAY, AUGUST 4, 1965

(Legislative day of Tuesday, August 3, 1965

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

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

Eternal God, Father of our spirits, whose power is unsearchable, whose judgments are a great deep, our feverish hearts are quieted as in prayer we touch the hem of Thy garment.

As amid the earthquake, wind and fire of this violent world we wait for Thy still, small voice, give us, we ask, sensitive ears to listen, teachable minds to learn, humble wills to obey.

Here today in this Chamber of national deliberation, let some revelation of Thy light fall on our darkness, some guidance from Thy wisdom save us in our bewilderment, some power from Thine infinite resource strengthen us in our need. Acknowledging our oneness with all humanity, we come as patriots believing that our America has come to the kingdom for such a time as this.

Because of our sense of mission our Nation's welfare is of supreme priority to us. Grateful for its best traditions, anxious for its present perilous state, prayerful for its sons who this very hour are fighting in liberty's cause, we come crying for wisdom for our national leaders that we may contribute worthily to mankind's abiding peace.

We ask it in that Name which is above every name. Amen.

NATIONAL AMERICAN LEGION BASEBALL WEEK—LEGISLATIVE REAPPORTIONMENT

The Senate resumed the consideration of the joint resolution (S.J. Res. 66) to provide for the designation of the period from August 31 through September 6 in 1965, as "National American Legion Baseball Week."

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from New York [Mr. JAVITS].

Under the unanimous-consent agreement, the time for debate on the amendment is limited to 1½ hours to the Senator from New York [Mr. JAVITS], and one-half hour to the Senator from Illinois [Mr. DOUGLAS].

THE JOURNAL

Mr. MANSFIELD. Mr. President, will the Senator from Illinois yield for one-half minute?

Mr. DOUGLAS. I am glad to yield to the Senator from Montana all the time that he might desire.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, August 3, 1965, be considered as read.

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

NATIONAL AMERICAN LEGION BASEBALL WEEK—LEGISLATIVE REAPPORTIONMENT

The Senate resumed the consideration of the joint resolution (S.J. Res. 66) to provide for the designation of the period from August 31 through September 6 in 1965, as "National American Legion Baseball Week."

Mr. JAVITS. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator from New York. How much time does the Senator yield to himself?

Mr. JAVITS. I suggest the absence of a quorum, and ask unanimous consent that the time necessary for the call not be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARRIS in the chair). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 30 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 30 minutes.

Mr. JAVITS. Mr. President, I am very understanding of the portentous issue and the great decision that face the Senate today. The days of debate have highlighted the importance of the decision.

It is interesting that the issue is what politicians call a "sleeper," in that the public has not as yet become aroused to what is at stake, but I believe it will. Also, I believe it is the kind of issue of which much can be made and undoubtedly will be made in future campaigns. It is the kind of issue that develops slowly when something is done about which the people are unhappy. At some point they will suddenly return to the fact that the action has been taken and it has made them unhappy, and then they will look to what we did about it here—whether we adopted one of the two amendments or whether we did nothing. It is our

job to look down the road of time and of history, and viewed in this way the issue is fully as important as it has been made by the opponents and the proponents of the proposals that are before the Senate.

Another aspect of the matter which strikes me as highly significant is that the substitute amendment which I have presented to the Senate has stood up amazingly well in the analysis and the debate which has ensued. My staff and I, together with the aid of experts in the field of constitutional law, developed this substitute; and whenever one postulates a standard of this kind, he anticipates its being shot full of holes. But if nothing else results from this effort on my part, I am now convinced, more than ever, that if a solution is desired—and I think that is undoubtedly the prevailing view of the Senate—this is a feasible, just, and constitutional solution.

Today, I wish, first, to deal with the essential differences between the substitute which I have suggested and the original proposal of my beloved leader, the distinguished Senator from Illinois [Mr. DIRKSEN], and then to deal with the major arguments which have been made against any amendment to the Constitution, and to show how, in my judgment, the substitute which I suggest meets all the arguments conclusively.

First as to the changes: It will be noted that the first change is that in my proposal there is a joinder of the population along with geography or political subdivisions as factors in the apportionment of one house of a bicameral legislature. Let us remember that the reason why we are here at all is that the Supreme Court has decided that both houses of a bicameral legislature—and undoubtedly the one house of a unicameral legislature as well—must be apportioned strictly on the basis of population—one man, one vote. The Court has indicated that there may be a difference between the two houses, but not in the matter of the weight of voting, in accordance with population. It is important that we understand exactly how the Court felt about that, so I should like to read from the decision, in slip opinion form, in the case of Reynolds against Sims, at page 41. The Court said:

> We do not believe that the concept of bicameralism is rendered anachronistic and meaningless when the predominant basis of representation in the two State legislative bodies is required to be the same—population. A prime reason for bicameralism, modernly considered, is to insure mature and deliberate consideration of, and to prevent precipitate action on, proposed legislative measures. Simply because the controlling criterion for apportioning representation is required to be the same in both houses does not mean that there will be no differences in the composition and complexion of the two bodies. Different constituencies can be represented in the two houses. One body could be composed of single-member districts while the other could have at least some multi-member districts. The length of terms of the legislators in the separate bodies could differ. The numerical size of the two bodies could be made to differ, even significantly, and the geographical size of districts from which legislators are elected could also be made to differ. And apportionment in one house could be arranged so as to balance off minor inequities in the representation of certain areas in the other house.

In short, the Court allowed for the continued use of two houses—but only within the strict population standard for both.

It should be noted, therefore, that the first change which my substitute amendment makes is to require that population be the base, but that the factors of geography or political subdivisions may also be given consideration in addition to population. The difference between the Dirksen amendment and my amendment in that regard is in the use of the disjunctive in the Dirksen amendment: "population, geography, or political subdivisions."

The first difference therefore—and I think it is most meaningful, because it goes to one of the primary objections made by the opponents of any constitutional amendment—is that under my amendment, population must continue to be used, but geography or political subdivisions may also be used as factors; while it is charged that under the amendment of the Senator from Illinois [Mr. DIRKSEN], any one of the three may be used at the option of the people.

The next difference, which is critically important, is my omission of the provisions in the Dirksen amendment which read:

> Giving each factor such weight as they deem appropriate, or giving similar weight to the same factors in apportioning a unicameral legislature——

The effort in the Dirksen amendment is obviously to place whatever decision is made on this subject within the limits of geography, political subdivisions, or population, in the hands of a majority of the people in a referendum, without tying them to any particular standard. The Dirksen amendment would make the State's judgment final.

In the case of my amendment, the jurisdiction of the Supreme Court would be preserved to determine, in the first place, whether population has still been used as the base, and geography or a political subdivision have been utilized as an additional factor. That is the second distinction.

The third distinction is, in my judgment, most basic. It concerns the relationship of the plan of apportionment to the needs of the State. The new words which I use are:

> Bears a reasonable relationship to the needs of the State, is consistent with the provisions of this Constitution except for the provisions of this article.

This language contains two separate ideas. One relates to the fact that even if the majority of the people in a State desire to apportion one house on a basis of not only population, but also geography or political subdivisions, it must yet be demonstrated to the satisfaction of the courts that the mixture of factors which the majority of the people seek bears a reasonable relationship to the needs of the State.

This is a time-honored standard of judgment which the courts will pass on. I have cited, and will cite again in the course of these remarks, the fourth amendment to the Constitution itself and a host of statutes under which the courts have dealt with precisely such a standard. Such a standard is entirely appropriate and is one with which the courts can deal.

This would mean that proof would have to be given to the Court that the nature and the needs of the State are such that one of the houses should be apportioned on a basis other than strictly population. Let me cite some examples, because they are classic examples in this controversy.

It is a fact, for example, that in my own State—and it is always best to start with one's own State—some two-thirds of the population of the State is concentrated in the five counties of the city of New York and the contiguous suburban areas. That represents but a small part of the State in area. However, it represents two-thirds of the population of the State. The other one-third of the population of the State occupies the overwhelming percentage of the total area of the State.

A similar situation exists in Alaska. In two heavily populated areas of Alaska. Anchorage and Fairbanks, reside half the population of the State.

In Hawaii, five-sixths of the population is concentrated in the Honolulu area.

In Arizona, three-fourths of the State's population is concentrated in the area in and around Phoenix and Tucson.

In Nevada, three-fourths of the population of the State is concentrated in and around Las Vegas and Reno.

These are classic cases. There are others. My colleagues have debated the situation which exists in Colorado. Colorado is a classic instance of that character. Although I do not have the figures in front of me, it is roughly in the same order of magnitude as the cases I have cited. However, Colorado is also sharply divided by a mountain chain which almost compartmentalizes the State in a physical sense and gives the people of that State a great desire for apportioning one of the houses of their State legislature with that concept in mind.

These are classic examples of the relationship of the geography of a State to its legislative apportionment.

There are 62 counties in New York. The counties to which I have referred as being contiguous to or part of the metropolitan area of New York City, in which two-thirds of the State's population reside, comprise 8 or 9 of the State's 62 counties. The disparity is immediately apparent. The other counties, constituting the overwhelming part of the area of the State, are relatively sparsely populated.

Therefore, I have drafted a substitute, and proposed it to the Senate. It would seem to me that an apportioning of one house of a State legislature, which would differ from the strict population approach and relate to the need for development of parts of the State which are not heavily populated, would qualify

within the concept of a reasonable relationship to the needs of the State.

In referring to judicial review, I believe it is important to note that even the Dirksen amendment is not free from the need for court construction. Indeed, limiting the permissible factors, as that amendment does, to geography or political subdivision or population would itself open a plan of apportionment to challenge in the courts on the ground that some other standard had been used.

I point out also that in an early draft of the proposal of the minority leader, Senate Joint Resolution 2, the word "reasonable" appeared as applicable to the method by which a unicameral legislature might be apportioned. Once the word "reasonable" was introduced, the Court would have jurisdiction. It is my judgment that, even under the Dirksen amendment as now drafted, the Court would have to give special consideration to the situation of a unicameral legislature.

To proceed with my analysis, the basic and fundamental difference and the third difference between the two amendments, is the standard in my proposal, that a plan must bear a reasonable relationship to the needs of the State. In that connection, I refer again to a partial list of statutes I had printed in the RECORD on Monday, in which the concept of "reasonable" is written, and which the courts have for years construed in many cases with no trouble at all, as they have also in the case of the fourth amendment to the Constitution, which prohibits "unreasonable" searches and seizures.

I refer to these statutes now by title. They are: The Interstate Commerce Act; the Packers and Stockyards Act; the Federal Food, Drug, and Cosmetics Act; the Judicial Code, insofar as condemnation and forfeiture of property is concerned; the Federal law relating to bridges over navigable waterways; the Federal Power Act, which has the word "reasonable" in quite a few of its sections; and the Federal Railway Labor Act.

I refer especially to the Renegotiation Act of 1951. In that act the words used are practically the same as the words which I use in my proposed constitutional amendment. These words have been construed by the executive agencies and the courts with no trouble, just as the words in my proposal can be construed by the courts with no trouble, in my judgment. Section 1216 of the Renegotiation Act of 1951, which relates to a cost allowance and deals with inventory, states:

SEC. 1216. EXEMPTIONS.

(b) Cost allowance. For the purposes of this subsection the term "excess inventory" means inventory of products, hereinbefore described in this subsection, acquired by the contractor or subcontractor in the form or at the State in which contracts for such products on hand or on contract would be exempt from this title [said sections] by subsection (a)(2) or (3) of this section, which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders * * *

It will be noted that these are very similar to the words that I have used in my amendment, and the agencies and courts have had no trouble in construing the Renegotiation Act of 1951. The courts will have no trouble in construing the exact intention of this language.

On another issue, I believe it would not be necessary under my amendment to wait until the people had acted in a statewide referendum adopting an apportionment plan, before submitting it to the courts to determine whether it bears a reasonable relationship to the needs of the State. I state, as a part of the legislative history, that I believe that a justiciable controversy is established as soon as the question is proposed to be submitted by proper legal action to the people. At that point there is a justiciable controversy, and the matter may be considered by the courts. If the courts are not ready to decide the question, they may stay the referendum until such time as they are ready to do so. So, without the embarrassment of having the Court overrule the people, a plan may be tested in the courts under the standard and the question answered before the people act on the proposal, or the proposal may be amended until it conforms to the standard set by this amendment.

I point out that at all times the people will be given a fair choice, since under my proposal, whenever a plan is submitted to the people, there is also submitted an alternative plan based on apportionment of the same house strictly on the basis of population.

It seems to me this amendment is a perfectly practical proposal which, if adopted, would give flexibility to what is now inflexible, as I read the cases, where flexibility is highly desirable, without involving the jeopardy of the courts overruling the mandate of the people on the ground that it does not meet the test of the constitutional amendment.

In sum, the third aspect of difference, and the most essential one, is the test of reasonable relationship to the needs of the State, which will make it possible for the courts to decide, when that relationship has been established, that the people may apportion one house on the basis of population and—and I emphasize the word "and"—geography or political subdivisions, rather than population alone.

The next difference in the language of my amendment from the Dirksen amendment is: "is consistent with the provisions of this Constitution except for the provisions of this article."

Again, I state the meaning of this as a matter of authoritative legislative history. What is meant is that, apart from the Supreme Court's decision in Reynolds against Sims that the 14th amendment requires the apportionment of the upper house of a State legislature to be apportioned strictly on a population basis, every other requirement of the Constitution remains as it has been, notwithstanding the proposed constitutional amendment now pending before the Senate. That is all I mean by those words. Any effort to construe them differently would be a tortured construction of words which, in simple English, mean exactly what they say, and have no hidden implications. I do not propose to amend any provision of the Constitution or any construction thereof except solely the one which must necessarily yield so that this amendment can be operative. Other than that, I intend to change nothing.

My reason for inserting this language is that, if the amendment is adopted without such protection, an opportunity might be presented to some States to perpetuate racially discriminatory malapportionment which arose because for decades a part of their population—Negroes—have been inhibited from voting, by outright discrimination, discriminatory application of literacy and other tests, by intimidation, custom, or for any other reason. There has been a very sharp limitation in some places upon their opportunity to vote.

I am seeking to protect against the utilization of this constitutional amendment to apportion one house on such a basis as to capitalize upon the fact that many Negroes do not yet vote, for reasons which I have just stated. Therefore, by making applicable all other provisions of the Constitution, with special reference to the 14th and 15th amendments, except that part of the 14th amendment affected by this amendment, I seek to insure that there shall be no inhibition in any way on account of race, color, or creed, of the constitutional rights of the people. I feel that those rights are protected, and that the courts will protect those rights under this amendment, with the inclusion of those words.

It is claimed that the courts would do that under the Dirksen amendment, even though it is not explicitly expressed as it is in my amendment. It is so important to me—and, I feel, to the Nation—that it be crystal clear, that I have made it crystal clear in the language of my amendment itself.

Two other differences between my amendment and the Dirksen amendment are as follows:

I provide specifically for a statewide referendum in which the people exercise their choice between plans of apportionment. The Senator from Illinois [Mr. DIRKSEN] calls for a vote of the people in accordance with law and the Constitution of the United States. I add to that the terms "in a statewide referendum," because, as we lawyers say, it is boilerplate language to make it clear that it is a referendum in which all the people of the State would vote, and not unit-wide or county-wide referenda, in which the result of separate majority votes might be different from the statewide majority vote. I do not for a moment charge that the Senator from Illinois [Mr. DIRKSEN] had anything else in mind than did I, but it is not stated in so many words in his amendment. In my amendment I have stated it in just so many words.

Finally, there is in both amendments provision for the submission of alternate plans to the people, that is, a plan for the apportionment of one house as permitted by the constitutional amendment and a plan based strictly on population, in the case of the first use of the amendment. I propose that not only the first submission to the people, but all subsequent submissions, every 10 years following the decennial census, shall also

be in the alternative. The Senator from Illinois [Mr. DIRKSEN] provides for the submittal in the alternative only on the first occasion, that is, when this amendment of the Constitution is first used in a State.

In view of the fact that in these amendments we are trying to deal with population shifts, it is better to repeat the process in the most complete fairness, so far as people's judgment is concerned, by giving them the alternative of a straight population plan whenever the apportionment of one house other than on a population basis is submitted to them, rather than to that only on the first occasion.

Mr. President, those are the salient differences between the Dirksen amendment and mine.

When I resume the floor, I shall analyze why, in my judgment, my amendment has stood up so well in this debate as answering every one of the points which have been made against the Dirksen amendment, except, of course, the basic opposition of those who wish to make it absolutely impossible for the people to apportion one house of a State legislature other than on a basis of strict population.

Mr. President, I yield some time to the Senator from Pennsylvania [Mr. SCOTT], although he does not intend to espouse my part of the argument. Nevertheless, I desire to accommodate him, as he wishes to state his position on the Dirksen amendment.

The PRESIDING OFFICER. How much time does the Senator from New York yield to the Senator from Pennsylvania?

Mr. JAVITS. I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. SCOTT. Mr. President, first of all, I appreciate the courtesy of the distinguished Senator from New York. He may be unduly pessimistic, because I have not made up my mind concerning his amendment. As debate progresses, perhaps I can support it. At this moment, I do not wish to make a commitment either way.

Aside from that, we have had a good deal of talk about alternatives, yet it seems to me that most unsought and undesirable alternative of all is waiting in the wings, in case this body and the other body do not propose a constitutional amendment on reapportionment.

Mr. President, I have been quite surprised that throughout the debate so little attention has been paid to what can happen, and what is very likely to happen, if we quibble over the wording of a constitutional amendment, instead of meeting together among all who may have divergent views to agree upon some sort of wording, rather than to be thrown upon the second choice in the Constitution of the United States.

I believe it is sound advice not to forget that there is a Constitution, and that the Constitution contains provisions.

One of those provisions has never been used—which is not to say that it cannot be used, or will not be used—and that is the alternative in article V, which I read in part:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or,—

In those two small letters "o" and "r" reside the danger of what can happen and what well may happen on this issue if we do not deal with it now in the Senate as responsible legislators.

Continuing reading from article V:

> or, on the application of the legislatures of two-thirds of the several States, shall—

Notice that it says "shall." The word is not "may" or "might" or "could" or "maybe." The word is not a Presidential word. It is not up to the President at all, for once in our legislative excitement this year. It is something which is not up to the President. It is something the President does not have anything to do with. It is something the President has indicated he is staying out of—and I believe that is good.

The provision reads "shall."

Who shall?

The Congress shall.

Continuing reading from article V:

> shall call a convention for proposing amendments, which, in either case—

Either alternative, that is—

> shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress;

Mr. President, what is going on?

I believe that we already know what the Dirksen amendment provides.

The Dirksen amendment merely permits States, subject to the consent of their electorate, to apportion one house of their legislatures on a basis other than population. The only nonpopulation factors which can be considered are geography and political subdivisions. The use of these factors would be permissive only with the consent of a majority of a State's voters in a referendum. Failure to act, or a majority defeat at the polls, would mean both houses of the legislature would be based on population alone.

Under the Dirksen amendment, a State legislature when first submitting to the electorate a plan of apportionment based upon geography and political subdivisions must at the same time submit an alternative plan of apportionment based upon substantial equality of population. Thus, a State's voters have the last word as to how they want the second house of their legislature constituted.

Now, as to the first mistake of those who oppose this amendment. There seems to be some sort of a far-fetched conviction among them that because we who support it have been forced by court decisions to take the initiative if we want to preserve a long exercised State right, that as opponents, all they need to do is to deny us a two-thirds majority vote here on the Senate floor and their problems and our problems will quickly fade away.

Mr. President, they are mistaken for two reasons:

First of all, no important piece of legislation that commands support even approaching the two-thirds mark just fades away after a rollcall. Majority will remains intact for a long time and has a way of prevailing ultimately.

Second, the tactic of delay is not going to work. Far too many people are too deeply concerned abut this issue to be deflected from trying to achieve their objective. For example, 30 of the 50 State legislatures have submitted formal pleas for action by Congress. Twenty-seven have actually told us that if Congress does not want to act, they want a constitutional convention called so that action can be taken regardless of our wishes.

I might advise some of our knee-jerk, liberal friends that we can hardly expect fair apportionment if we turn this whole proposal over to State legislators, many of whom are infinitely more conservative than the membership of this body, and whose adjudication would be more conservative than that of the Members of this body. Therefore, I wonder whether liberalism is, as they may designate it for themselves, a very liberal act when they endanger every civil rights proposal for which they and I fought and bled and almost died for on the floor of the Senate.

This is a caveat. This is a warning: "Ye know not what ye do."

Bearing in mind that 30 State legislatures have formally asked us to act on this matter, and bearing in mind, also, the alternative method of amending the Constitution provided in article V, I believe that the opponents of the constitutional amendment offered by my able and distinguished leader, Mr. DIRKSEN, fail to perceive the consequences of the developing chain of events.

If four more States demand action on this proposal, Congress will be in trouble. Let me assure my colleagues that there are more than four State legislatures determined that action should be taken.

Keep in mind that only 34 States have formally to demand a constitutional convention. Only 38 States are needed to ratify. This entire issue would then be taken from our hands and given to a national convention to decide.

Here we come to the crux of the contents of that Pandora's box which those who oppose have so far failed to perceive. A constitutional convention would be able to act as it pleases on this issue or, for that matter, on any issue. Perhaps to the misfortune of the American people, it could abolish the Supreme Court, or it could amend any section of the Constitution which we deeply cherish. It could even propose to eliminate the equal protection clause of the 14th amendment which our opponents claim is at stake in this debate. We should remember that the product of such a convention would not come back to Congress for study, correction or even official comment. It goes back to the States for ratification.

Only one's imagination can limit his speculation about the wide variety of controversial subject matter which might

erupt, but I can say that a wide-open convention is not something that thoughtful and concerned citizens would relish.

I can well imagine that there could be a great deal of unofficial comment here. I, for one, would not want a convention forum afforded those who do not like our American interpretation of freedom, our faith in the voter's judgment or, for that matter, our way of life in general. There are those, we all know, who do not like the way this Senate is constituted and who would gladly have us represent population alone.

If that were to come to pass, my State would have six Senators instead of two, and I am told that I would be vice chairman of the delegation. Nevertheless, I must say that I like it the way it is.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield 2 additional minutes to the Senator from Pennsylvania.

Mr. SCOTT. There are those who zealously seek greater centralization of political power here in Washington. And, there are those who distrust both the right and the ability of the people to decide.

Those who oppose the Dirksen amendment, if successful, get something very much worse. Have they paused to consider what a constitutional convention involves? Do they realize what such a convention would have to face?

Let me suggest a few problems which would have to be faced:

Who will preside over the convention?

There is a nice, meaty subject to argue about. The President cannot suggest it. Of course he can suggest it, but he cannot nominate.

Could the call of the convention be limited to the amendment of a single article of the Constitution?

I say it cannot.

Could the call of the convention be limited?

Who would be delegates to the convention?

There is a nice, healthy opportunity for lengthy discussion.

How would they be selected?

Would the number of delegates from each State be equal or apportioned according to population?

If according to population, what guarantees are there for the rights of the small States?

I suggest that Senators from the small States might give a little consideration to that.

What rules would govern the convention?

Could such rules be adopted by majority vote? By States or population?

Would there be any limitation on debate upon the rules of the convention?

Would there by any limitation on the length of the convention?

Could not the convention last for 3 or 5 or 10 years?

Would the convention have the power to recess and return later?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield 1 additional minute to the Senator from Pennsylvania.

Mr. SCOTT. What would be the status of reapportionment of the various State legislatures during the proceedings of the convention?

Remember this: The action of the few remaining State legislatures necessary to call a constitutional convention could occur at any time.

If those who oppose the Dirksen amendment do not want this to happen, what have they done to draft a constitutional amendment that could reasonably expect to secure the support of a two-thirds majority in both Houses of Congress and the approval of three-fourths of the States?

It is the opponents of this amendment who would open Pandora's box.

The contents of Pandora's box are not elucidated in Greek mythology. Perhaps the box contained a bucket of eels.

Mr. President, I ask unanimous consent to have a statement printed in the RECORD at this point in my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

I want to bow to the Senator whose name is most popularly identified with the proposed constitutional amendment now before us and whose broad understanding of the problem has caused him to think through, as few of us would be able to, and deliver himself of a summary statement of how this resolution protects our American way of life.

I refer to that great student of legislative procedure, my beloved colleague from Illinois [Mr. DIRKSEN] who, just a few days ago, brought added clarity to the discussion by listing the fundamental principles involved, as follows:

(1) Government derives from the consent of the governed. Stated simply, let the people decide.

(2) The preservation of the traditional Federal pattern of two-house representation where the voters of a State so decide.

(3) An opportunity for voters to consider alternative plans for State representation under constitutionally authorized procedure.

(4) An opportunity for judicial review.

(5) A mandatory voter review of apportionment after every Federal census.

(6) Deliberate avoidance of all language which might detract from or impair the force and effect of any existing constitutional provision or law dealing with guarantees of equal rights of all citizens in a State regardless of race, color, or creed.

How much simpler our legislative task would be if we could keep such fundamentals as these before us and place them in proper perspective as we debate the issue point by point. Much of the noise and din of the battle would fade, I am sure. Politics being what it is, however, I realize that this is too fond an expectation.

In a statement before the Senate Subcommittee on Constitutional Amendments last March, I summarized my view on the proposal now before us, as follows:

"What is at stake here is not equal representation, as suggested by the slogan 'one man, one vote,' but fair representation. Not only do individuals per se deserve representation, but individuals in the context of areas wherein they reside. I am not asking that trees and open fields be represented on a par with people, but I am suggesting that people in certain areas and the problems and interests they share cannot be ignored in constructing a system of fair representation. This principle underlies our Federal system of representation whereby the U.S. House of Representatives is apportioned on the basis of population whereas the U.S. Senate is based on area considerations.

"The American system of representative Government is far more complex than the simple structure suggested by the slogan 'one man, one vote.' Given the many interests and groupings and shades of opinion present in our pluralistic society, achieving fair representation of all these elements is not an easy undertaking. Equality as an abstract ideal may be noble. In the practical world of our political system however, fairness must be the standard in developing a system of representation for our people. That surely was the standard guiding the drafters of the Constitution as they considered the structure of the Congress of the United States."

None of the debate that has occurred since then has caused me to change my mind.

Frankly, I think the more it becomes known just what this resolution is all about, the easier it will be to mass overwhelming support for it in every State. Its principles underlie our Federal system as we and our forefathers have known it, and it provides a mighty challenge for us to defend that which has worked so well.

If we pursued to the end the philosophy which some of the opponents of this resolution are advocating we would soon find ourselves and our Republic heading down hill for the cliffs with no brakes to apply. The slogan "one man, one vote," which this resolution's opponents use with such seeming innocence is the first precipice. Those who stridently utter this slogan really want to see political power centralized into the hands of big city bosses, who in combination can soon be running not only their States but the Nation as well. In elaboration, let me quote from an article in Newsweek, June 14, 1965, by the well-known commentator Raymond Moley.

After pointing out that in the industrial centers the leaders are the political bosses and the labor leaders, Mr. Moley says:

"For more than a century these urban areas were boss controlled. Some still are. But as Federal welfare grew after the middle 1930's, the bosses became mere proconsuls under the Federal Establishment which had unlimited funds to supplant the machine's beneficial treasury. This, it seems, meant the twilight of the boss and the machine. Like Othello, they found their 'occupation gone.'

"Reapportionment, which will throw control of the legislatures to these city machines and unions, will mark a revival of the old order. For in many States the urban organizations, mostly Democratic, will dominate the State capitals. Through control of the legislatures, the urban legislative stooges will next redraw the congressional district and thus assure in the House of Representatives a majority capable of perpetuating what we have now.

"That is the prospect before us. And unless some constitutional means is devised and enacted to assure some semblance of geographical representation in at least one house of the State legislatures, there may well be indeterminate domination of national affairs by the political and labor leaders in the great cities."

I don't know how many of my colleagues had an opportunity to hear the speech made on the Senate floor, July 23, last, by the distinguished Senator from Wyoming [Mr. SIMPSON]. He described in startling fashion the second precipice toward which we can find ourselves headed because of failure to pass this resolution. Some individuals have been so engrossed in the politics and the power potentials of this issue that they are beginning to consider the application of the "numbers only" theory to the U.S. Senate. They see the prospect of a handful of big city bosses controlling State political conventions, national conventions, national and State patronage, as well as legislative bodies.

My able friend from Wyoming put it this way:

"Using the 1960 census figures, let us assume that the Senate of the United States would be apportioned on a one-man, one-vote basis. The total number of votes to be considered would represent something over 178,500,000. Because of its population, New York State would be given nine Senators, Pennsylvania would be given six, California would be given nine, Illinois six, Texas five, and Ohio five. Let us stop right there. I have listed just 6 States with 40 votes. Next let us add four for Michigan, three for New Jersey, three for Florida, and three for Indiana. At this point my story is told—10 States and 53 votes—a clear majority.

"It may help to know that in working out these tabulations, we found ourselves giving the four States, Arizona, New Mexico, Utah, and Colorado, a combined total of three Senators. We found ourselves giving Kansas, Missouri, and Oklahoma a combined total of five Senators, and the States of Nebraska, North Dakota, South Dakota, Wyoming, and Montana would get a total of only two Senators."

I think Senators and all Americans should pull up sharply and look at what we are being asked to do, or rather not do. The Supreme Court of the United States has found—and it was pursuing its responsibility—that the writers of the Constitution had neglected to spell out in necessary detail those provisions needed if States are to make decisions in regard to legislative apportionment. There is language on this point regarding the United States Senate because it was placed in article I of the Constitution and reiterated as an amendment in 1913. Ours is now the choice of adding language to our Constitution which establishes once and for all the right of a State to exercise its judgment in apportionment matters. Our alternative is to sit here on our hands and permit the influence of big city bosses to become national in scope. Those who oppose the resolution have one advantage which its proponents do not possess. All they have to do is try to block the effort to preserve in constitutional language certain State rights which were long considered inviolate.

This situation, I warn, is not one that involves majority control alone. It is one in which a small group seeks to block a two-thirds vote expression. One sometimes gets the impression that to them "majority will" means nothing unless it is their will. Such conduct adds strength to the argument that they prefer control from the top, boss control, to control from the bottom which is the expressed majority will of the people.

One of the finest attributes of our Federal system has been its obvious concern for protecting the rights of minorities. Majority rule is only one side of our system of government. The protection of minorities, be they economic, regional, religious, racial, or political, is also a part of our system and should be a part of the thinking of all of us. Arbitrariness, caprice and unreasonableness make no contribution to progress under this system.

All of us are aware that some individuals would reduce State agencies to mere administrative tools for a central government. Some ambitious city bosses, also, are determined to control entire States with or without the help of the Central Government. Both groups see this resolution as a threat to their ambitions and to their power objectives. And it is right they should, for this resolution would retain in the hands of the majority of voters in each State the right to give minorities a voice in legislative halls which no big city boss would ever offer voluntarily.

Now on this question of majority will, let me call attention to the fact that the sponsors of this resolution have not come before you in whining, demanding, or belittling fashion and claimed foul play because the rules of this Senate and the demands of our Constitution call for a two-thirds rather than majority vote. Let me say that if a mere majority vote were required, this debate would be short lived. We know at the outset that more than one-half of the Senators favor this resolution, just as more than one-half of the State legislatures of this Nation have formally urged us to take action.

The sponsors of this resolution are perfectly willing to follow the course of action specifically called for by article V of our Constitution. As everyone knows, it requires a two-thirds vote of approval by both Houses of Congress and the ratification of the proposed amendment by three-fourths of the State legislatures before an amendment becomes the law of the land.

Let's look at the other side of the coin. With high emotion the opponents of this resolution have injected catch phrases into the debate and elevated the cry for majority rule to hysterical heights. They decry all systems of representation not based on a head count and a head count alone, and they indulge in tricky comparisons such as cows versus people and imaginary denials of racial rights. But just where, I ask, do they stand on this question of majority rule? Is threatening filibuster tactics against a two-thirds expression showing a true and proper respect for majority decision?

This proposed constitutional amendment is a mild one, to say the least. It is the very opposite of arbitrary. Its greatest virtue is that it provides a basis for all States that wish a very easy and logical accommodation of conflicting interests. For some States this would permit a continuation of a legislative apportionment system which they have utilized for years. For others it need mean no change at all. It is permissive in its intent and rests its usage upon a popular vote of the people. Its purpose is to provide a democratic method for dealing with gross disparities and minority claims on a basis of representation, not dictatorship. It deals with a way for fair representation.

All of us have some special knowledge of the frustrating circumstances that have developed in many States across the Nation since the U.S. Supreme Court's ruling in *Reynolds* v. *Sims*. Each State has the task of working its way out of a complex and extremely frustrating dilemma.

My own Commonwealth of Pennsylvania has been struggling with the problem for months. Pennsylvania's problem was ably outlined by the Honorable Marvin Keller, a member of Pennsylvania's State senate and chairman of its Committee on Elections and Reapportionment, as follows:

"Pennsylvania, while not without fault in the past, in January 1964, met its obligation under its constitution by apportioning the seats in both houses of its legislature.

"These 1964 Apportionment Acts were tested both in the Federal and State courts. [See *Drew et al.* v. *Scranton*, civil actions Nos. 8293 and 8338, U.S. District Court for the Middle District of Pennsylvania (Apr. 9, 1964) and *Butcher* v. *Bloom*, 415 Pa. 438 (Sept. 29, 1964).]

"In both courts, Pennsylvania's legislative apportionment was found invalid solely because of compliance with constitutional requirements which have governed reapportionment in Pennsylvania for 90 years.

"The constitution of 1776 provided for representation by cities and counties and from 1790 factors other than population have been mandated.

"The constitutional requirements contained in the Pennsylvania constitution were approved by a referendum of all the people. It is significant that five times since 1891 the matter of calling a convention to revise the constitution has been submitted to the people and five times they have rejected it, indicating satisfaction with present provisions or at least no urgency for change; the last such rejection was in 1963.

"It is submitted that the reasons which prompted the utilization of the factors other than population throughout the whole existence of Pennsylvania as a State, are valid today.

"As Mr. Chief Justice Bell observed in *Butcher* v. *Bloom*, a rule—

"'* * * which completely disregards and discards history, tradition, geography, local interests, and local problems, differences in dialects and language, in customs, in ideas, and ideals in each State and also in many parts of each State; which will almost inevitably deprive minority groups of a fair and effective representation in legislative halls of their principles, customs, traditions, their particular problems and desired solutions, and the preservation of their cherished way of life; which will insure that their interests will not only be diluted, but will be in practical effect, frequently ignored; which is so far removed and so different from what the people in each State of the United States have believed in and cherished and on which they have for a century or more based their government and their way of life; ought not to be allowed to stand.'

"A plan which is acceptable for representation in the Congress as adequate to preserve free government should not be less so when applied to a State legislature."

This is Pennsylvania's story, and I know a parallel will be found in many other States. Pennsylvania and every State needs encouragement from the national level to work out our solutions. They need the assurance that can come only with permissive language being placed in our National Constitution.

Mr. JAVITS. Does the Senator from Pennsylvania yield back the remainder of his time?

Mr. SCOTT. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 15 minutes.

Mr. JAVITS. Mr. President, whether or not the Senator from Pennsylvania votes for my substitute, I deeply appreciate what he has said, and I am delighted to have given him the time to say it. He has made a most significant point. The Senator from Pennsylvania has eloquently, as is his wont, explained the dangers which are inherent in the demand of some 27 or, at a maximum, 30 States, for a constitutional convention, an alternative method of amending the Constitution, not heretofore used since the founding of our Nation.

I should like to underline this point. It is a perfectly proper argument and a legitimate consideration to raise at this time. I should like to extend it one step further, because I believe it typifies what we are dealing with at the present time.

I am sympathetic toward the one-man, one-vote concept. No one has been a stancher defender of the Supreme Court than I. I fought for it when its decisions were popular and when they were unpopular. I do so now. I hope to continue to do so.

But I recognize that what we are dealing with in the Dirksen amendment is not simply a willful attempt to overrule the Supreme Court.

What we are discussing is the danger of a constitutional crisis, which may arise in our Nation if we do nothing. That is quite possible.

At one time the President sought to pack the Supreme Court. That was back in the thirties. There was a cry of outrage. The proposal was turned down by the Congress. However, there was nothing to prevent Congress from packing the Supreme Court, by a majority vote, had it wished to do so. By majority vote, we could deprive the Supreme Court of the essential elements of its appellate jurisdiction.

Mr. President, if 34 States should demand a constitutional convention, and if the Supreme Court should intervene and say that such a convention must be called on the one-man, one-vote basis and not otherwise, and if the Supreme Court should then intervene and say that the work of such a convention may not be submitted to the State legislatures—because they are malapportioned—until they are fairly apportioned, there could be a constitutional crisis second to none, in which the Supreme Court would be defied, as Andrew Jackson defied the Supreme Court when he told it to go ahead and enforce one of its decrees if it had the soldiers to do it, and not otherwise.

We are legislators. We are statesmen. We are not children. We have to contemplate all the dangers and strains to the Nation which may result.

That is what would happen if this issue assumed, as it would, in the public forums, the lineaments, the size, and the tension, which it does not now have—I am the first to say that. So far as the public is concerned, as of now we have gotten no real reaction to indicate that they are cognizant of what is taking place in this Chamber, except that a colorful Senator is moving an amendment which is called the Dirksen amendment, and that many dug-in liberals are opposing it. Other than that, the public is generally unaware of the crucial issue which is before us. That is all the more reason why we should, with judiciousness, with intelligence, and with a deep analysis, and in an objective and dispassionate way—because the public is not pressing passion upon us, as it often does with respect to burning issues—come to a conclusion in this matter.

It is for that reason that I have offered an amendment.

That is why I said when I opened this morning that I believe the whole course of the debate has buttressed and borne out exactly what I am arguing for; that this amendment has stood up remarkably well in the light of the criticisms which have been made of the Dirksen amendment, but which could not be made of my amendment. The debate leaves only the central proposition, Shall we allow any measure of flexibility to the people of a State who wish to adopt the Federal analogy, the composition of the U.S. Senate, and who face particular State problems, with heavy concentrations of metropolitan populations, or the physical separation of parts of the State, as, for example, in the State of Colorado? Shall we let anyone do anything about such cases? Shall we give them any such opportunity with the most complete safeguards in the world? I respectfully submit that we should. We would make a great mistake if we did not.

If we keep the top on top of the kettle while the kettle is boiling, it will blow some time. It would be a very unwise and dangerous thing for legislators to do. I feel this is so especially since the debate has shown that I have met the challenge of framing an amendment which, with the greatest economy of means and the greatest safeguards, would do what needs to be done, namely, to give back a little bit of flexibility to the people which I think would be unwise and dangerous to deny them.

The changes my amendment would make in the Dirksen amendment answer the arguments which have been made against the Dirksen amendment. It is most significant that the opponents of the Dirksen amendment themselves, as they have argued against the Dirksen amendment, have been compelled to say time and again, "Yes; what we say is true as to the Dirksen amendment but it is not true as to the Javits amendment." I believe that is very important, underlining and emphasizing the fact that in my amendment I have answered in substance the major points made against the Dirksen amendment.

Mr. President, for the present I should like to conclude my argument upon this note. The question is, What am I doing in my amendment as it relates to the basic decision in Reynolds against Sims? There are two things I am trying to do. One is to implement the dictum which the Court itself uttered. We lawyers call a dictum an observation not necessary to the decision in a case. My second purpose is to implement, to spell out what that dictum meant, a meaning which I find in the dissenting opinion of Mr. Justice Stewart, joined in by Mr. Justice Clark.

It is extremely important that we understand that point, because it seems to me it is the final proof of the fact that what I am seeking to do is follow along, within a very well-trodden path, that precedent, and that my proposal draws on not only the dissents, as shown by Mr. Justice Stewart's opinion, but also the majority opinion of the Court.

As to the majority, it will be recalled that I read to the Senate from page 41 of the majority opinion, with emphasis upon the fact that both houses, not merely one house, must be apportioned on the basis of population. The Court went to some pains to point out——

The PRESIDING OFFICER. The 15 minutes which the Senator yielded to himself have expired.

Mr. JAVITS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 additional minutes.

Mr. JAVITS. That did not mean that one of the houses could not differ from the other. The Court specified what could be the areas of difference.

For example, the Court said that one of the bodies could be given a longer term. Those serving in that body could represent broader geographical areas, and there could be fewer legislators in that body; and it could have different powers. But the Court emphasized that that was the only latitude permissible in the requirement that both houses be apportioned according to population.

Then the Court, in a very interesting understanding of realities, went on in what I call dictum. At page 44 of the slip opinion, the Court said:

> So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational State policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral State legislature.

The Court indicated that even they had to accept the fact that they could not be quite so strict as they might like.

Then we find on page 8 of the dissenting opinion of Mr. Justice Stewart, the following statement which, it seems to me, is a clear implementation of what was meant by the majority in the statement I have just read. Mr. Justice Stewart said:

> What constitutes a rational plan—

Note that he picks up the same idea—a rational plan—

> reasonably designed to achieve this objective, to wit, representation of diverse interests, will vary from State to State, since each State is unique in terms of topography, geography, demography, history, heterogeneity and concentration of population, varied social and economic interests, and in the operation and interrelation of its political institutions. But so long as State apportionment plans reasonably achieve, in the light of a State's own characteristics, effective and balanced representation of all substantial interests without sacrificing the principle of effective majority rule, that plan cannot be considered irrational.

It seems to me that that is all I have done with my amendment. I have taken this concept which is carried out in the majority opinion and carried out in the minority opinion and have put it into the language of law, so that it may be available to the people of the respective States, with some degree of flexibility, but with the fullest possible protection which the courts can give, to work their will in this situation to a very limited extent.

I represent a very large State. I am a "big city" Senator in the sense that I come from New York City. I have lived there all by life. It is a State having, without any question, a heavy concentration of voting and political support both in New York City and in its environs. Nonetheless, I have stood here and espoused this proposal because I believe it to be the path of statesmanship. I believe it would avoid a constitutional crisis which we might very well invite if we do nothing. I believe I am honestly representing the best judgment of not only the people of my State, but also the people of my home city and its environs, in suggesting that we move a material step away from the inequities of the past, inequities which have occurred in New York and in many other States; but that we not let the pendulum

drive us completely in the other direction.

I am against the tyrannies of minorities and also against the tyrannies of majorities. I consider it to be my duty to do everything I can, so far as human ingenuity will permit, which will avoid, equally, both tyrannies.

This is not the celebrated amendment that all the newspaper talk has been about, but I think it is a logical amendment and the right amendment. It would do the job that needs to be done with the greatest economy of means and the preservation of the greatest values involved in this debate.

I deeply believe—and this is where I differ with the opponents both of my amendment and of the Dirksen amendment—that it is a great mistake of the liberals—and that does not mean that I derogate from their liberalism; I respect them for it and honor them—to keep the lid on a kettle that is likely to be hotly boiling, without providing some escape valve. That is what I propose to do, with the utmost safeguards which human endeavor and ingenuity can devise.

Mr. President, I reserve the remainder of my time.

Mr. DOUGLAS. Mr. President, I yield myself 6 minutes.

The Javits amendment, like the Dirksen amendment, is fundamentally based on the assumption that there was something wrong or incomplete in the decisions of the Supreme Court covering the reapportionment of State legislatures.

I believe, on the contrary, that the decisions of the Supreme Court were supremely right and that there was nothing wrong with them.

The State legislatures, over a period of 60 years, had refused to reapportion themselves in accordance with the movements of population. As a result, most of the State legislatures were grossly malapportioned. Voters in some districts had 10, 20, 100, or in some cases even 1,000 times the voice in selecting members of the legislatures as did other voters. The Court correctly said that voters could not be assured of the equal protection of the laws to which they were presumably guaranteed under the 14th amendment if they were grossly underrepresented in the legislatures which made the laws.

There were many striking cases of States where less than 15 percent of the voters elected a majority of the members of one house of the legislature, and in one case of both houses of the legislature; there were many other cases in which less than 20 percent elected a majority of the members of one house; and still others in which less than 30 percent and in many less than 40 percent elected such a majority.

The legislatures had refused over many decades to reapportion themselves, so the Supreme Court, acting under the 14th amendment, finally was compelled to act.

I wish to clear up one assumption under which my good friend from New York [Mr. JAVITS] seems to travel, namely, that the Supreme Court in its decisions tended to impose an inflexible system of representation in implying that there must be a precise mathematical equality among the various districts and a precise equality in the number of voters who are to elect each member. I shall read from the case of *Reynolds* v. *Sims*, the Alabama case, 377 U.S. 533, to show that this is false.

> Whatever the means of accomplishment, the overriding objective must be substantial equality of population among the various districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen in the State.

That was reaffirmed in other passages of that decision, when the Supreme Court said:

> We realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, or citizens, or voters. Mathematical exactness or precision is hardly a workable constitutional requirement.

So it is clear that in its initial decision the Court provided for flexibility, holding, however, with the basic principle of substantial equality. But there was to be a margin of tolerance around the average.

Then, in the case of *Lucas* v. *Colorado General Assembly*, 377 U.S. 713, which related to an apportionment which had been put into effect by a somewhat rigged referendum, in a decision handed down on the same day as the Alabama case, the Court reaffirmed the principle that both houses of a bicameral State legislature must be apportioned substantially on a population basis. In the footnote to that case, dealing with its decision in the Maryland case, the Court said, however, that its Maryland determination had been to establish districts substantially equal in population, but that after an evaluation of the apportionment plan in its totality, the Court could then determine whether there had been sufficient compliance.

Only last winter, in a Georgia case, *Fortson* v. *Toombs*, 379 U.S. 621, the Supreme Court held that the Court might desire to achieve some flexibility by creating multimember of flotarial districts, and reaffirmed its decision in Reynolds:

> Whatever the means of accomplishment, the overriding objective must be substantial equality of population among the various districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen in the State.

There can therefore be a departure from the principle of mathematical equality provided it is not substantial. The Court, in its good judgment, can determine what constitutes substantial equality and what constitutes a deviation from substantial equality.

The Court is on the right track. It does not need to be corrected. But my good friend the senior Senator from New York would open up all kinds of possible misinterpretations in his proposed amendment. He would provide that a State may depart from the use of population as a basis for apportionment if such plan of apportionment "bears a reasonable relationship to the needs of the State." Who is to determine the reasonable relationship to the needs of the State?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 additional minutes.

Mr. DOUGLAS. Mr. President, the presently malapportioned State legislatures would determine the needs of the State. The Supreme Court may be bound to accept that decision, because while my good friend the senior Senator from New York tries to cover himself by saying that it must be consistent with the provisions of this Constitution, he adds the phrase, "except for the provisions of this article." The Court might hold that under the provisions of the Javits article, they might depart substantially from the basis of population.

It would be dangerous to agree to the Javits amendment. The situation is similar to a group of people being confronted with a piece of polluted meat, which, if eaten, would be dangerous to the health of the multitude. I believe that is what the Dirksen amendment is.

My friend, the senior Senator from New York, would try to retain the Dirksen amendment by pouring formaldehyde on the meat in the hope that it would in some manner disinfect the meat and remove the bacteria.

The proper thing to do would be to clear up the confusion, defeat the Javits amendment, and then defeat the Dirksen amendment.

Mr. President, I yield 5 minutes to my colleague the junior Senator from Maryland.

The PRESIDING OFFICER. The junior Senator from Maryland is recognized for 5 minutes.

Mr. TYDINGS. Mr. President, I urge the Senate to reject the Javits substitute for the Dirksen substitute for the National American Legion Baseball joint resolution.

I do so with some regret, for I bow to no man in my admiration and respect for the distinguished senior Senator from New York.

Mr. JAVITS. Mr. President, will the Senator permit me to request the yeas and nays?

Mr. TYDINGS. Certainly.

The yeas and nays were ordered.

Mr. TYDINGS. Mr. President, the distinguished senior Senator from New York is an exceptionally able lawyer. I have admired him throughout my tenure in this august body.

The Senator from New York studied in depth the question of amending our Constitution to modify the Reynolds against Sims decision.

I believe that he has an intimate and detailed knowledge of the judicial decisions rendered on the subject of reapportionment by the Supreme Court and by the lower courts.

In addition, I share, as does the distinguished senior Senator from Illinois, the view of the senior Senator from New York that it is desirable, and, indeed, necessary to permit the State some latitude and flexibility in the apportionment

of their legislatures. I believe that legislative districts should be substantially equal in population, as does the distinguished senior Senator from New York. However, if there is some good and rational reason to deviate in some modest degree from this standard, there should be no constitutional prohibition.

I believe, however, that that is where our agreement ends. If the distinguished senior Senator from New York is correct in interpreting his amendment as merely reiterating the judicial review inherent in the language of Reynolds against Sims, then I submit that this amendment is not necessary.

I would like to point out that we had hearings for 5 months. One thousand two hundred pages of testimony were taken before our subcommittee. But we never once considered the complete language of the amendment which now seeks to be included in the Constitution of the United States. Therefore, we do not have the knowledge we would have gained from hearings and from study by the Committee on the Judiciary.

I believe that, even if we were to pass an amendment which would, as the senior Senator from New York states, merely restate the law laid down in the case of Reynolds against Sims, it could then become a vehicle in the other body for an objectionable amendment or an amendment which might revert it to the present Dirksen substitute. This, of course, would be entirely undesirable.

I should like to comment, as did the senior Senator from Illinois, on the Reynolds against Sims decision. I believe that that decision has been thwarted and twisted by the proponents of the Dirksen amendment, so that many people do not realize what that decision means.

That decision makes it very clear that mathematical exactness is not required.

I shall read a portion of the decision in that case now to emphasize what the Supreme Court said:

> A State may legitimately desire to maintain the integrity of various political subdivisions, insofar as possible and provide for compact districts of contiguous territory in designing a legislative apportionment scheme. Valid considerations may underlie such aims. So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational State policy, some deviations from the equal population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral State legislature.
>
> A State can rationally consider according political subdivisions some independent representation in at least one body of the State legislature, as long as the basic standard of equality of population among districts is maintained.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. Mr. President, I yield 3 additional minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 3 additional minutes.

Mr. TYDINGS. Mr. President, in the Delaware case, Sincock against Duffy, the Supreme Court reaffirmed the standard of flexibility that it had expressed in Reynolds against Sims. It affirmed the decision of the lower court of Delaware, which approved an apportionment standard that permitted deviations up to 1½ to 1. The Court took pains to state that it was not approving a mathematical standard, but rather held:

> In our view, the problem does not lend itself to any such uniform formula, and it is neither practicable nor desirable to establish rigid mathematical standards for evaluating the constitutional validity of a State legislative apportionment scheme under the equal protection clause. Rather, the proper judicial approach is to ascertain whether, under the particular circumstances, existing in the individual State whose legislative apportionment is at issue, there has been a faithful adherence to a plan of population-based representation with such minor deviations only as may occur in recognizing certain factors that are free from any taint of arbitrariness or discrimination.

The lower courts have permitted similar flexibility in approving the apportionment plans in Georgia.

To be sure, some of the lower courts seem to have adopted a somewhat mechanical attitude toward one man, one vote. But these decisions have not yet been reviewed by the Supreme Court.

We now have an effort to amend the Constitution of the United States because of one unpopular Supreme Court decision—unpopular in certain areas.

It is too early to tell if the Supreme Court's statements, admittedly in dicta, or the decisions of some of the lower courts are to be the law of the land. I hope and expect the general attitude of flexibility will prevail. But it is a mistake, I believe, to amend the Constitution on a prediction or hunch that the case law will not develop in a reasonable way.

I would remind my colleagues that the Reynolds decision is barely 1 year old. Let us not amend the Constitution in haste. If I am wrong, and the law, as it develops becomes fixed and inflexible, I will support the Senator from New York in seeking ways to loosen these standards. For the time being, I would hope we would follow the age-old tradition of Anglo-Saxon jurisprudence of allowing the law to develop on a case by case basis, at least until it becomes clear what the law is. Only then will we have an adequate basis for determining what, if any constitutional amendment is needed. We should not pass an amendment which has not been considered by the Subcommittee on Constitutional Amendments and which has not been debated in the Committee on the Judiciary, but which has been tacked on to a substitute for a substitute for the American Legion baseball joint resolution.

That is no way to amend the Constitution of the United States.

I thank the Senator.

Mr. DOUGLAS. Mr. President, how much time is remaining to us?

The PRESIDING OFFICER. The senior Senator from Illinois has 16 minutes remaining.

Mr. DOUGLAS. How much time remains under the control of the senior Senator from New York?

The PRESIDING OFFICER. The senior Senator from New York has 27 minutes remaining under his control.

Mr. DOUGLAS. Mr. President, does the Senator from New York wish to continue?

Mr. JAVITS. Yes. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, I heard with very great interest the arguments made against my amendment by Senators who oppose all reapportionment amendments. I should like to answer those arguments.

The first point is that it is contended that there should be some latitude and flexibility and that there could not be mathematical exactness, but that Reynolds against Sims now provides latitude and flexibility, and that therefore the amendment is unnecessary.

I respectfully submit, however, that, although the dictum which my distinguished colleagues read, which uses the words "legitimate considerations incident to the effectuation of a rational State policy," would indicate that divergence of the very kind contemplated by my amendment would be permissible, the majority opinion goes on to make it very clear as have the lower courts in subsequently decided cases in New York, Colorado, and other States, that they will enforce the equal population principle very strictly.

Therefore, as a lawyer, I say that the expression which the Court has used was dictum. It was left to Mr. Justice Stewart, whose opinion I read, to pick up the dictum in the majority opinion, namely, a rational policy, and to define it by saying that apportionment should be permissible if it is developed rationally in the light of the State's own characteristics.

In view of the fact that the decisions of the Supreme Court do not match these words quoted from the majority opinion, I have called those words dicta, because I am a God-fearing lawyer with respect for the Constitution and devoted to the Supreme Court. I have tried, therefore, to incorporate in my amendment what the Court indicated in its opinion it sees as the sociological requirements of the day and what Mr. Justice Stewart spelled out in great detail as a rational State policy. Justice Stewart picked up the Court's words on page 8 of his dissenting opinion in Lucas against Colorado when he used the phrase, "what constitutes a rational plan reasonably designed to achieve its objective."

My amendment seeks to permit the people of a State to develop a reasonable plan, which the Supreme Court indicated was its view, but which has not been its practice in deciding the cases, and which was implemented by Mr. Justice Stewart's dissenting opinion.

Second, it has been stated that my substitute was not studied in the Judiciary Committee. The Dirksen amendment was studied in extensive hearings by the Constitutional Amendments Subcommittee of the Judiciary Committee.

There was considerable debate on the Dirksen concept last year, in which, it will be remembered, the whole effort was to stop the Supreme Court from deciding this issue and that effort was headed off. There was much discussion with respect to this amendment. My amendment seeks to make certain changes in the Dirksen amendment. It seems to me that its effect can be fully judged by Senators as a result of the weeks which have intervened since it was proposed, and that there has been full opportunity to study my amendment.

I note the argument which has been made that, if my amendment is adopted, it may be a vehicle for perhaps doing something more far-reaching in the other body; that it may go to conference, and perhaps a result will occur which no one desires. There is no way of guaranteeing oneself against anything in life or in death. The other body will act. The action will be submitted to the Senate. The Senate will have to do something about it, or at least go to conference. Probably we would do something about it. If it goes to conference, we can turn down the conference report if we do not like it. We have done it many times before.

As I have just said, there is no way that one can have an absolute guarantee against what may happen in life or in death. All we know is what we do here. It is our duty to do our best here. When matters are before this body, we must do our best to consider them. We cannot refrain from acting and doing what is right because of what we consider could conceivably be abuses on the other side of the Capitol. The great majority of Senators have not been inhibited from acting on this side because of what may happen in the other body.

I would like to sum up exactly what I have in mind.

First. I believe I have taken care of every legitimate objection to the Dirksen amendment.

Second. I think I have not only preserved, but broadened and ennobled the jurisdiction of the Supreme Court in full accord with the traditions and the terms which the Court has used and utilized in reference to the fourth amendment to the Constitution and a succession of statutes, which I have spread on the RECORD.

Third, I have proposed a way to take care of a situation which might one day generate sufficiently to create a constitutional crisis. Let it be remembered that we have been fortunate in the comparatively few constitutional crises we have had. It is difficult to think of one after the effort of President Roosevelt to pack the Supreme Court. I am trying to avoid a constitutional crisis by providing the little flexibility which is needed to avoid it.

Finally, realistically and practically, I do not put beyond the realm of possibility within my own State, or any other State similarly situated, the apportionment of one house not based strictly on population, but having an admixture of population with geography or political subdivisions as additional factors, by the vote of the people in the areas which are most congested and who might be expected to have the most to gain from voting against such a proposal.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 2 additional minutes.

When we face the people in a deliberate way with a measure of self-restraint, in a constitutional sense, they will often adopt a proposal, notwithstanding the fact that if they are not given that opportunity they will utilize to the fullest extent possible that which gives them maximum power.

In other words, if we give an opportunity to the people living in New York City and the counties of Westchester, Nassau, Suffolk, Rockland, and other similarly situated counties, who would ordinarily elect representatives to represent their specialized point of view, to vote for less representation and to give greater representation, for example, to the great north country of my State, they very likely will, nevertheless, vote to do so. I refer to parts of a tremendous area of my State, largely undeveloped, the so-called southern tier area, which may qualify under the Appalachia development program because of its conditions.

The inequity has been that malapportioned State legislatures have been extremely unfair to the people of the cities and suburbs because history stood still in legislative apportionment while it resulted in a reshuffling of the population.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 1 additional minute.

Let us not make the same mistake in giving a tyranny to the majority over the minority, which may have legitimate requests, not only abstractly, but which would willingly be accepted by the majority itself. I say let us give the majority that opportunity. On that ground I hope very much that the Senators will choose this logical way and adopt my amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOUGLAS. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. The Senator from Illinois [Mr. DOUGLAS] has 12 minutes under his control.

Mr. DOUGLAS. How much time remains on the other side?

The PRESIDING OFFICER. The Senator from New York [Mr. JAVITS] has 17 minutes under his control.

Mr. DOUGLAS. Mr. President, I ask unanimous consent that there be a quorum call, with the time not charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOUGLAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DOUGLAS. I yield 5 minutes to my friend and junior colleague, the Senator from Illinois [Mr. DIRKSEN].

The PRESIDING OFFICER. The junior Senator from Illinois is recognized for 5 minutes.

Mr. DIRKSEN. Mr. President, I am always a little distressed when I have to take issue with my distinguished friend from New York. I recognize his legal capabilities. I fully appreciate his judicial temper, and above all else I appreciate his sincerity and fidelity to the Constitution of the United States as he interprets it. Moreover, I believe that I share his great regard for the high tribunal which was created by the Constitution. I find it difficult, under those circumstances, when I am compelled to disagree.

Section 2 of the Senator's amendment contains a proposal that a plan of apportionment which has been approved under this article shall be submitted to a vote of the people in a statewide referendum.

The word "referendum," insofar as I can determine, is not a word of art in legal terminology. It does not appear in the Constitution of the United States. I presume that there are many States which have no special laws dealing with a referendum.

I can understand the desire of the Senator from New York to be assured on that point, but what we would do in the Dirksen substitute would be to provide for the submission of these plans at a general election. A general election is undertaken in every State. It is taken every 2 years, because the House of Representatives—with a 2-year term—must, in its entirety, submit to the suffrage of all the people. Concomitant with that, there are other State and local officials who will be on the ballot at that time.

In my State of Illinois, that is the way we refer proposals to the people of the State. We do not use the word "referendum." We put all such proposals on the general election ballot. I believe that such a provision in a statewide referendum would only add to confusion.

For that reason, I cannot accept the substitute amendment of the Senator from New York.

In addition, the Senator from New York provides for "a reasonable relationship in any plan to the needs of the State."

Who shall determine what the needs are?

That would call, doubtless, for judicial interpretation. The Senator from New York understands that, when I approached this problem, I was thinking in terms of the people. I was thinking in terms of what I believe to be a primary principle in our Government.

I notice another dissenting opinion by one whom I regard as a great juridical scholar, Associate Justice John Marshall Harlan, who has addressed himself to that very issue. In one excerpt from his opinion, he states:

> It is difficult to imagine a more intolerable and inappropriate interference by the judiciary with the independent legislatures of the States.

I do not mean for one moment to demean the status or authority of the Supreme Court of the United States. I do mean, however, that, insofar as I am concerned, I wish to get back to the people, because I believe the States are sovereign, for, if they were not, we would have no State-Federal system, as we understand it.

Justice Harlan deals with that subject also when he says that the majority opinion is so profoundly ill-advised and constitutionally impermissible. He said:

These decisions also cut deeply into the fabric of our federalism—

Meaning our Federal-State system.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. I yield 1 minute to my colleague from Illinois.

Mr. JAVITS. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 3 minutes.

Mr. DIRKSEN. I continue to read:

What must follow from them may eventually appear to be the product of State legislatures. Nevertheless, no thinking person can fail to recognize that the aftermath of these cases, however desirable it may be thought in itself, will have been achieved at the cost of a radical alteration in the relationship between the States and the Federal Government, more particularly the Federal judiciary. Only one who has an overbearing impatience with the Federal system and its political processes will believe that that cost was not too high or was inevitable.

I can understand his solicitude for the Court. I do not yield in that respect to anyone. On the other hand, I take my constitutional doctrine straight. When that preamble began by saying, "We, the people, ordain this Constitution of the United States," even though that is not admissible for purposes of legal interpretation, it still means to me exactly what it says.

It is in full accord with what Jefferson wrote in the Declaration of Independence. It is because of my concept of a Federal-State system that I do not wish to see it destroyed; and when overemphasis is put on judicial interpretation, as against the rights of the people, then look out for a precious system, which has made this the greatest country on the face of the earth. Under those circumstances, I earnestly hope that the Senate will reject the substitute offered by my distinguished friend—and he is my friend—from New York.

He and I have conferred time and time again on the verbiage of his substitute and on the language that I propose to the Senate. However, I would rather not undertake the dangers that may lie in the Javits substitute. I hope, therefore, that by an overwhelming vote it will be voted down.

Mr. JAVITS. Mr. President, how much time do I have remaining?

Mr. DOUGLAS. How much time remains?

The PRESIDING OFFICER. Eight minutes remain under the control of the Senator from Illinois. Fifteen minutes remain under the control of the Senator from New York.

Mr. JAVITS. I yield myself 3 minutes.

Mr. DOUGLAS. I hope that we may proceed to a vote on the amendment as quickly as possible.

Mr. JAVITS. No one can listen to the Senator from Illinois without pleasure and without profit. It should also be stated in great tribute to him that his amendment has undergone considerable modification. The modifications have been sought in an endeavor, insofar as the Senator could, to meet the views of people like myself as to necessary procedural safeguards, such as the repeated submission to the people of an alternative straight population plan, and the limitation of permissible factors to geography or political subdivisions only along with population, not in lieu of it.

He has endeavored in every way to improve his amendment. It should be said to Senator DIRKSEN's credit also that he never once first said, "If I make these changes, do I have your vote?" That was typical and generous of him.

He has answered the argument of the senior Senator from Illinois [Mr. DOUGLAS] by saying that my amendment is merely sprinkling formaldehyde over the Dirksen amendment. I do not believe that is so.

Our proposals do have fundamental differences in principle. The Dirksen amendment reflects the view, honestly and deeply felt, that the Court should have refused jurisdiction in Baker against Carr and Reynolds against Sims on the ground that for 176 years the Supreme Court had said that legislative apportionment was a political decision and would not touch it, and that it is not a matter for judicial cognizance. But the Court took jurisdiction. In doing so it made a great, historic breakthrough in American history, which the Court justified on the ground that the people had no other way of getting out of the clutch of malapportionment. My proposal accepts the Court's jurisdiction. Therefore it differs from the idea of the Dirksen amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 2 additional minutes.

My proposal accepts the Court's jurisdiction, but it does so by establishing a method by which flexibility can be afforded within that jurisdiction. That is why I read into the RECORD portions of the majority opinion and the dissenting opinion of Mr. Justice Stewart, to demonstrate exactly what I was doing. My amendment accepts the Court's jurisdiction and uses the Court as an arbiter in order to give flexibility to the one-man, one-vote system which the Court's decision has put into effect.

There is a deep difference in principle, I say to both the proponents of the Dirksen amendment and to the opponents of my amendment and of the Dirksen amendment. It would be a great mistake not to accept the historic breakthrough of the Supreme Court when it took jurisdiction and used it to break the dilemma.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 1 more minute. But I say we should not keep the lid on too tight. If we do, it will blow up in our faces. That is the essence of my argument. It is for that reason that I hope very much that the Senate will adopt my amendment.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. JAVITS. I shall be glad to yield——

Mr. BAYH. I know that the time of the Senator from New York is running short. If he would yield to me 2 or 3 minutes, I would appreciate it.

Mr. JAVITS. I yield 3 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 3 minutes.

Mr. BAYH. The Senator from New York, as a member of the Judiciary Committee, is well aware of my views on this question. I regret that the Supreme Court of the United States was compelled to intervene in the problem, which I, as a former State legislator, believed very frankly, should have been solved on the local level. But the Senator from New York has adequately stated the point. Some action was necessary because a number of States had failed to reapportion for long periods of time. In Tennessee it had been 70 years while my own State went for 40 years before apportioning—although it was one of the better States in this regard. What alternative does the individual have when State after State refuses to accept this responsibility? This question has been posed by the Senator from New York and remains unanswered.

So the Supreme Court was forced into the field to protect individual rights. To the consternation of some of my good friends in this body, I share the opinion of the Senator from New York that we should still permit some State leeway. But the Senator from New York and I feel that we must have safeguards to go with that leeway. The proposal of the junior Senator from Illinois does not have adequate safeguards. The Senator from New York would require the "reasonable necessity" test. That is not his exact verbiage, but that is the major thrust behind his safeguard.

Until recently I had intended to offer an amendment which would contain my own views on the subject. With the indulgence of the senior Senator from Illinois, I hope later to discuss a modification. I had planned to offer an amendment, but to save time I shall not do so. I had thought that perhaps prior compliance with the Court ruling, coupled with provisions for some leeway which the junior Senator from Illinois desires, would be the better course.

I compliment the Senator from New York. To engage him in discussion on the floor of the Senate and also in the committee has been an educational opportunity. I still wish that we could provide for some leeway. Frankly, as I view it now, it appears, as the junior Senator from Illinois has said, the deck is stacked against those of us who wish to have safeguards and yet also some

leeway. I thank the Senator from New York for yielding.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. What the Senator has said is most congenial and most interesting to me. Whatever his action might be on my amendment, I believe every Senator wishes to feel that he has tried to propose something which makes basic sense. I have now highlighted what I feel very deeply. In the present argument I am on the side of the Court proponents. But I believe the Court tied its hands in a way in which logic dictated. It could do nothing else. As we look through the decisions, notwithstanding the dicta which have been referred to, I feel that they would allow some flexibility. When it comes to deciding cases, they are straight down the line on the one-man, one-vote principle. They feel that that is what they must do. They find it difficult to do anything else, unless we tell them that that is what we would like to have done.

Mr. BAYH. Mr. President, will the Senator from New York yield for one further thought?

Mr. JAVITS. I yield.

Mr. BAYH. What I have to say is in line with the Senator's argument. I must admit that I speak from a very low rating in the batting order so far as seniority in this body is concerned. But as I look at the legislative process, it seems to me that we as legislators must decide the issue which is before us. The vote which will soon be taken will be on the following question: Do we prefer the Javits amendment in the nature of a substitute, or do we prefer the Dirksen amendment in the nature of a substitute? That is the issue on which I intend to vote—not what might conceivably happen at some indeterminable period in the future in some other body.

Life is extremely uncertain. Any action which is taken in the other body must come back to the Senate for concurrence. I know very well from recent experience that it takes two-thirds of those present and voting to concur in any action which is taken by the other body.

Mr. DOUGLAS. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. DIRKSEN. Mr. President, the debate has been thorough. We shall not use any more of our time. If the Senator from New York does not wish to use any more of his time, I suggest that the Senate come to a vote.

The PRESIDING OFFICER. Do both Senators yield back the remainder of their time?

Mr. MILLER. Mr. President——

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. The Senator from Iowa wishes to offer an amendment to my amendment. He is on his feet for that purpose. Is it necessary to yield back the remainder of the time on my amendment before the Senator from Iowa offers his amendment?

The PRESIDING OFFICER. The amendment of the Senator from Iowa cannot be offered until all time on the amendment of the Senator from New York has expired or is yielded back.

Mr. JAVITS. Mr. President, I am willing to yield back the remainder of my time.

Mr. DOUGLAS. Mr. President, I should like a clarification of the ruling which the Chair has made.

The PRESIDING OFFICER. No amendment is in order to be debated until after the time on the amendment of the Senator from New York in the nature of a substitute, which is under the control of the Senator from Illinois [Mr. DOUGLAS] and the Senator from New York [Mr. JAVITS], has expired.

Mr. DOUGLAS. Mr. President, how much time remains?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Does the unanimous-consent request provide that on an amendment to my amendment there will be available time which I shall control in opposition and the proponent of the amendment would control in favor of the amendment?

The PRESIDING OFFICER. Under the unanimous-consent agreement originally entered into, there will be 30 minutes available on the amendment, 15 minutes to each side. The Senator from New York would have control of the time in opposition to the amendment.

Mr. JAVITS. Mr. President, I wish to inform the Senator from Illinois that if he desires any time out of my 15 minutes, I shall certainly yield it.

Mr. DOUGLAS. Does the Senator from New York yield back the remainder of his time?

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. DOUGLAS. Mr. President, I yield back the remainder of my time. I hope that the Senator from Iowa will be brief in presenting his argument.

The PRESIDING OFFICER. All time on the amendment of the Senator from New York in the nature of a substitute has been yielded back. The Senator from Iowa is recognized.

Mr. MILLER. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Iowa will be stated.

The legislative clerk read as follows:

On page 2, line 2, between lines 15 and 16, insert a new section, as follows:

"SEC. 2. When a plan of apportionment of either house of a bicameral State legislature or of a unicameral State legislature includes a district or political subdivision having more than one member of a house of the legislature, each such member shall be elected from a separate subdistrict based on substantial equality of population to that of every other subdistrict of the district or political subdivision: *Provided*, That nothing shall preclude a State from adopting a plan of apportionment under which more than one member is elected from a separate subdistrict where the rights of racial, religious, and political minorities are protected."

Renumber the remaining section.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 15 minutes.

Mr. MILLER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. MILLER. Mr. President, on January 18 of this year the Supreme Court handed down its decision in Fortson against Dorsey, which was No. 178 of the October term, 1964. In reversing the district court's decision, the Supreme Court held that under the particular facts before it, the equal protection clause of the 14th amendment to the Constitution was not violated. The case involved apportionment of the Georgia State Senate, and the facts, briefly, were that in those counties where there were more than one State senator, each senator was elected from a separate district, but all of the people of the county voted for all the senators from that county.

The Court did say, however, that "It might well be that, designedly or otherwise, a multimember constituency apportionment scheme, under the circumstances of a particular case, would operate to minimize or cancel out the voting strength of racial or political elements of the voting population"; and that when this condition could be demonstrated, it would be time enough to consider the constitutional aspects.

It seems to me highly desirable to avoid the numerous ad hoc cases which could arise and proliferate as a result of the Supreme Court decision.

Granting, for the sake of argument, that voting strength of racial or political minorities might not be jeopardized at a particular time, this would not mean that the situation would not change. People move, and political affiliations change. Why not avoid the problem altogether by having the Constitution provide that, in counties having more than one legislator—representative or senator—each legislator must be elected from a separate district? Such constitutional provision would contradict the Supreme Court decision in the Fortson against Dorsey case insofar as it would preclude all of the people of a county from voting for all representatives. People residing in one legislative district could not elect a representative from another legislative district. Unless such a provision exists, how could racial and political minorities be protected? And, I believe that any representative from any district is going to quite naturally be concerned with the problems of his county. After all, he will be a resident of not only his legislative district or subdistrict, but also of his county.

To permit a situation to exist, as is now the state of the law, in which all the legislators from one county may come from one corner or one small section of the county because all of them can run at large, also lays the foundation for deprivation of rights of racial and political minorities.

Such a situation exists in my own State of Iowa today. The largest county, Polk

County, has 11 State representatives and 3 State senators. Several other counties have from four to six representatives.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table which I have prepared on this subject.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF THE IOWA GENERAL ASSEMBLY, HOUSE OF REPRESENTATIVES, MARCH 1, 1965

The following counties have more than one State representative under the interim apportionment plan and they are all elected at large within their counties under article III, section 37 of the Iowa constitution:

Polk	11
Linn	6
Black Hawk	5
Scott	5
Woodbury	5
Pottawattamie	4
Dubuque	3
Cerro Gordo	2
Clinton	2
Des Moines	2
Johnson	2
Lee	2
Marshall	2
Story	2
Wapello	2
Webster	2

Polk County also has three senators elected under the same system.

Mr. MILLER. Mr. President, it is recognized that certain sections of Des Moines, which is the capital city of Iowa and the largest city, by far, in the State, contains racial minorities of a substantial number not present in other parts of Polk County. It is also recognized that certain sections of Des Moines contain a great preponderance of voters affiliated with the minority party, which today happens to be the Republican Party. A similar condition exists in some of the other larger counties in Iowa. As a result of the election of last fall, all 11 State representatives from Polk County are members of the Democratic Party. Racial minorities are represented in the 11 elected State representatives, but it happened to turn out that way. There is nothing at all in the state of the law which would assure such representation in future primary and general elections. Also, it is generaly conceded that if Polk County had been districted into 11 State representative districts of approximately equal population size, some of the 11 State representatives would have been elected from the minority party.

My amendment is designed to require that separate subdistricts be set up for multilegislative counties or multilegislative districts, so that the people in one district may elect their own State representative or their own State senator.

I also provide in my amendment that the separate subdistricts must be approximately of substantially equal population with all the other districts, so that there will be no problem with the one-man, one-vote principle being effective so far as they are concerned.

I also provide that if the State does not see fit to have separate subdistricts for each of its legislators, it can nevertheless adopt a plan of apportionment under which more than one member is elected from a subdistrict, provided that the rights of racial, religious, and political minorities are protected.

It is my understanding that in Illinois, for example, there are legislative subdistricts from which three members of the State legislature are elected, but that because of cumulative voting it is further required that at least one of the three be from the minority party. Therefore, it appears that this particular arrangement in Illinois would at least protect political minorities. To what extent racial and religious minorities are protected, I do not know; but they should be protected, nevertheless.

That is all there is to my amendment. I believe it goes to the heart of fair representation; and that it goes to the heart of the protection of racial, religious, and political minorities, which is what the amendment offered by the Senator from New York seeks to do anyhow.

I shall be happy to answer any questions that Senators may wish to ask.

Mr. BAYH. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I yield.

Mr. BAYH. I am well aware of the problem that is presented by the distinguished Senator from Iowa, because Indiana, too, has multilegislative districts. However, are we being consistent in proposing a constitutional amendment which is designed to give the people of a State the leeway necessary to determine what formula they want and yet incorporate in the amendment restrictions which would require them to treat multicounty and multilegislative districts in a specific way?

Mr. MILLER. I believe we are entirely in order. We are really compelled to impose a restriction such as I have indicated. I have stated that there is nothing that would preclude a State from adopting a plan of apportionment under which more than one member would be elected from a separate district when the rights of racial, religious, and political minorities are protected. I believe that is a reasonable restriction to place on them. If that is not to be done, I do not believe a State has any business having multilegislative districts.

Mr. BAYH. With due deference to the Senator from Iowa, I have not had an opportunity to read fully his amendment; but as I understand, he makes certain requirements in the first section and then says, in effect, "But if you do not want to do this, you do not have to, provided you protect racial and other minorities." It seems to me that a much simpler way would be to require the protection of racial minorities, which is a clear requirement under the 14th and 15th amendments to the Constitution of the United States.

Mr. MILLER. The Senator from Indiana well knows that the umbrella to which he has referred provides protection, theoretically, at least; but he is also aware of the proliferation of cases that could arise out of these situations.

As I said in my opening remarks, in the case involving the Georgia senatorial districts, the Supreme Court intimated that under certain circumstances they might find that there had been discrimination, and this would entail ad hoc cases ad infinitum. I feel certain that the Senator from Indiana, as a member of the Committee on the Judiciary, does not want to see the Federal courts bogged down any more than is necessary for the protection of the rights of the people.

I believe the adoption of my amendment, if the Javits amendment is ultimately adopted, would greatly reduce the number of unnecessary cases that otherwise would arise. At the same time, I believe the amendment is drawn soundly to protect the rights of racial, religious, and political minorities, which is what we are striving for basically and what we are seeking to accomplish on the floor of the Senate now.

I am not trying to suggest that any ultimate umbrella is involved, because there is. The Supreme Court has intimated as much. But in order to have that umbrella cover the rights of racial, religious, and political minorities, I can visualize countless cases coming before the Court. So let us eliminate them as best we can, and, at the same time, get the job done. That is the basic thrust of my amendment.

Mr. BAYH. Perhaps I am a little more sensitive—and perhaps I should be—in the whole area of amending the Constitution and the importance of great care and deliberation be given in the verbiage put into that great document.

The Senator from Iowa is an illustrious lawyer in his home State and is aware of this need to give the proposed amendment all the care that is necessary.

However, I must admit to a bit of reluctance to voyage into the field of cumulative and proportional representation. It is one thing to say that we want to protect the rights of religious and national minorities; but to get into the position of saying that I want to protect the rights of political minorities exposes the whole area of representation, which can be debated at some length. Therefore, I am concerned about the ramifications in the conviction of the Senator from Iowa that perhaps an individual in a single-legislator district can get better representation. While that is probably the case, I believe we must consider all the other ramifications as well.

I thank the Senator for his tolerance.

Mr. MILLER. I do not believe the Senator from Indiana should be so reluctant. The substance of this amendment was offered before his subcommittee. The Senator from Iowa appeared and testified on this very point. My amendment is relatively simple. I am quite sure that the Senator from Indiana would be unhappy about the jeopardy to racial, religious, and even political minorities if, in the largest county of his State, there were 11 State representatives, all running at large, so many that the voters would not know more than 2 or 3 of them. That simply does not make for good government nor does it lay a foundation for the protection of basic rights.

Mr. CASE. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. CASE. Mr. President, I feel strongly that the Senator is endeavoring to get at a very important and useful point.

If his amendment were limited to his first requirement without the proviso, I should be inclined to support it. I do believe that the proviso is unworkable. It would purport to give a duty to the Supreme Court or to the courts which I do not believe the courts are competent to perform. I do not believe that the Court can protect the political minority, for example.

Specifically, I should be rather happy to vote for the amendment if it did not contain that proviso. I believe that it is desirable to bring representation in every political body down to the smallest possible case and to have one person representing each area.

Mr. MILLER. Mr. President, I appreciate the reasons stated by the distinguished Senator from New Jersey. I point out to him that I originally had my amendment drafted in that way.

The amendment which was presented to the Bayh subcommittee was so drafted. I then discovered that there appeared to be at least one State which has a peculiar situation in existence. I would be most loath to have my amendment prevent the State of Illinois from following a plan which appears to be working for the protection of the political minorities, and probably the racial and religious minorities, of that State.

Frankly, I do not believe that many States which would follow this particular point. I believe that most of them would go along with the use of the separate subdistrict approach. However, in cases in which they have not, I believe that it would be wrong for us to say, "regardless of how fairly the racial, religious, and political minorities are treated in Illinois, we will not let Illinois follow that plan."

I believe that we must have a second part to the amendment if we want to be fair.

Mr. CASE. I appreciate the purpose. I believe that it is a laudable one. I should hope that we could find some way to meet it. I have personally seen the difficulties that legislatures have in handling matters of this sort when they must make a decision.

The general result has been that the legislature ends with a compromise which does not satisfy the basis of equality of population, but does satisfy the individual members of the State legislature.

Mr. MILLER. Mr. President, the amendment would state to the people of the State that they had better have separate subdistricts for their legislatures because this is the key to the protection of racial, religious, and political minorities. However, if they do not want to do that, they can proceed with their own plans.

The PRESIDING OFFICER (Mr. BASS in the chair). The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 additional minute.

Mr. MILLER. Mr. President, if they do not want to do that, they would have the privilege of developing another plan, provided that it would protect racial, religious, and political minorities.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 1 minute.

Mr. BAYH. Mr. President, let me make it abundantly clear, as the chairman of the Subcommittee on Constitutional Amendments, that I very much appreciate the contribution which the Senator from Iowa has made. However, the Senator is aware, I am sure, that the hearings were spread out for about 2 months. We heard about 200 witnesses. There were several volumes of testimony.

Perhaps I should say that I take the full consequence of the fact that this matter was not discussed as thoroughly as it should have been. It was discussed, along with other proposals. However, here, at almost the 11th hour, we have to discuss this with all of its ramifications.

I agree with the Senator from New Jersey. I believe that the individual would get better representation by the kind of legislative district proposed by the distinguished Senator from Iowa. However, I believe that we would have to consider all the other ramifications which I am frankly not prepared to vote on intelligently at this time. We have not discussed the measure thoroughly enough.

Mr. JAVITS. Mr. President, I yield 2 minutes to the senior Senator from Illinois.

The PRESIDING OFFICER. The senior Senator from Illinois is recognized for 2 minutes.

Mr. DOUGLAS. Mr. President, the amendment has been sprung, not only at the 11th hour, but also at the 11th hour, 59th minute, and 59th second. Only a few Senators have had an opportunity to read the amendment. The amendment has not been printed. It is contrary to parliamentary procedure in the consideration of so grave a matter as an amendment to the Constitution of the United States.

I ask that this amendment be voted down overwhelmingly because, procedurally alone, it is a monstrosity.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, I am not appalled by the fact that the amendment comes at the 11th hour, 59th minute, and 59th second.

If I could encompass the matter intellectually, I would be glad to do it. Sometimes we are placed in this position. It is a matter of first impression with me. I saw the amendment a few moments ago.

I cannot accept the amendment. The Senator from New Jersey has helped by pointing out that if we were to design an amendment on my theory, with regard to the Court's jurisdiction, or on the theory of the junior Senator from Illinois, with regard to the jurisdiction of the people, giving some degree of flexibility to this process in respect to one house, we could not adopt another section which would restrict the flexibility which I seek to give.

The proposal seems to be contradictory to what my amendment seeks. As I leave the reasonableness of apportionment to the Court, I should leave this matter to the Court as well.

In the case to which my distinguished colleague has referred, Fortson against Dorsey, the Court reversed and made it very clear that it was sending the issue of multimember districts back for further consideration. That is pretty much my judgment of what we should do here.

I should like to feel that the fundamental decision of the Senate is being made on the basic issues and principles which have been discussed in some detail by the distinguished junior Senator from Illinois and myself as well as many other Senators. That is, whether we shall give some flexibility, and, if so, what shall it be? Shall it be entrusted to the Court or left exclusively to the people?

As sympathetic as I am for the problem in my colleague's State, I believe that if my amendment were agreed to, this problem would fall very easily within its ambit and could be worked out within the confines of my amendment.

I hope, with all due deference and respect, that the Senate will not encumber the rather clear proposition which I have submitted to the Senate through my amendment and which has been debated and discussed. I believe the amendment to my substitute might change the views of some Members for reasons unrelated to the basic issues of principle before the Senate.

For those reasons, and with the greatest understanding, I hope that the Senate will reject the amendment to my substitute.

Mr. President, I yield back the remainder of my time.

Mr. MILLER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from New York in the nature of a substitute for the amendment of the Senator from Illinois.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Oregon [Mr. MORSE] is absent on official business.

I also announce that the Senator from Minnesota [Mr. MCCARTHY] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. McCarthy] would vote "nay."

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a live pair with the distinguished senior Senator from Oregon [Mr. Morse]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withdraw my vote.

The result was announced—yeas 12, nays 85, as follows:

[No. 202 Leg.]

YEAS—12

Anderson	Harris	Morton
Bass	Javits	Moss
Bayh	McIntyre	Muskie
Church	Metcalf	Scott

NAYS—85

Aiken	Hart	Neuberger
Allott	Hartke	Pastore
Bartlett	Hayden	Pearson
Bennett	Hickenlooper	Pell
Bible	Hill	Prouty
Boggs	Holland	Proxmire
Brewster	Hruska	Randolph
Burdick	Inouye	Ribicoff
Byrd, Va.	Jackson	Robertson
Byrd, W. Va.	Jordan, N.C.	Russell, S.C.
Cannon	Jordan, Idaho	Russell, Ga.
Carlson	Kennedy, Mass.	Saltonstall
Case	Kennedy, N.Y.	Simpson
Clark	Kuchel	Smathers
Cooper	Lausche	Smith
Cotton	Long, Mo.	Sparkman
Curtis	Long, La.	Stennis
Dirksen	Magnuson	Symington
Dodd	McClellan	Talmadge
Dominick	McGee	Thurmond
Douglas	McGovern	Tower
Eastland	McNamara	Tydings
Ellender	Miller	Williams, N.J.
Ervin	Mondale	Williams, Del.
Fannin	Monroney	Yarborough
Fong	Montoya	Young, N. Dak.
Fulbright	Mundt	Young, Ohio
Gore	Murphy	
Gruening	Nelson	

NOT VOTING—3

Mansfield	McCarthy	Morse

So Mr. Javits' amendment (No. 367) in the nature of a substitute for the Dirksen amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Illinois [Mr. Dirksen].

Mr. TOWER. Mr. President——

The VICE PRESIDENT. The time is limited to 4 hours, to be equally divided between the opponents and the proponents.

Mr. DIRKSEN. Mr. President——

The VICE PRESIDENT. The Senator from Illinois is recognized.

Mr. MANSFIELD. Mr. President, will the Senator from Illinois yield, without losing his right to the floor?

Mr. DIRKSEN. I am glad to yield.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask that the time not be charged to either side.

The VICE PRESIDENT. Without objection, it is so ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DIRKSEN. Mr. President, I yield 10 minutes to the Senator from Texas [Mr. Tower].

The VICE PRESIDENT. The Senator from Texas is recognized for 10 minutes.

Mr. TOWER. Mr. President, I wish to add my voice to those of my colleagues who have already spoken out in behalf of the Dirksen amendment. I believe that the proposal has suffered for want of the kind of exposition it has been given here in the past week, and hopefully, there is still time to offset the wholly misleading things that have been said of it in the past 6 months.

I am pleased to see Members from the opposite side of the aisle join in this endeavor. It is an issue which rises above party affiliation, as it should. Whenever we consider a matter of such profound and fundamental constitutional implications we should, preeminently, look at it in terms of what it means to the well-being of the Nation. And, I would add, for all time and not solely for its consequences today.

It seems to me that in the Supreme Court's doctrine that numbers alone shall hereafter be the sole basis of legislative representation in the States, there is a clear and inescapable loss to the American system of government.

I, for one, had always thought that checks and balances were an indispensable part of this constitutional fabric that we call the American Federal system. It is true that we cannot find the phrase in the Constitution of the United States, but we cannot find consent of the governed or the rule of law there, either.

The concept is, of course, part of our traditions; our heritage down through the centuries. The American way is the sum total of those things from our national experience which have served us well and, by their very endurance, proved their worth.

Justice Oliver Wendell Holmes put it very succinctly when he said:

> The life of the law is not in logic; it is experience.

I think it is ironic, indeed, that the blow which was dealt to the checks and balances system in the Reynolds decision was administered by a body whose authority to work fundamental changes in our social, economic, and political life rests not upon an explicit constitutional power but, rather, on an implied one. The sweeping decisions of the Supreme Court which have worked great changes in American society over the centuries rest upon a foundation no more concrete than an appropriation of jurisdiction to which the other branches have bowed. That original assumption, and I speak of Marbury against Madison, of course, has been acquiesced in; it has full force today and, sustained and nourished as it is by tradition, there is no danger of it being swept away.

As I say, Mr. President, how extraordinary it is that a feature of the American system, equally—if not more—honored by tradition, stands in peril of being lost if not retrieved by explicit constitutional amendment.

What shall we have, I wonder, in place of the checks and balances in State government? After all, if we will not act to save a system we have used from the earliest days of the Republic, we should at least try to answer that question. We cannot stand idly by and see a vacuum open up. The question demands an answer.

I submit that the confidence of some of my colleagues that "numbers only" apportionment will guarantee majority rule is unfounded. On the contrary, I envision "plurality rule"—total political power entrusted to a transient plurality.

The other day, my good friend, the senior Senator from New Jersey, admitted that his disquietude over the Dirksen amendment stems from a fear that a transient majority could install a system of legislative districting for as much as 10 years at a time. It goes without saying that I do not share his fear. It seems to me that, if we have been able to hold the Republic together despite 175 years' use of Elbridge Gerry's monster, a provision for decennial referendum on legislative apportionment poses no peril. Indeed, I much prefer the latter and am greatly heartened at the prospect of its availability. I believe that the Republicans of Texas, who have had some experience with problems of the gerrymander, would gladly welcome it.

I have confidence that a proposition as fundamental as this is not going to be so lightly considered in an election campaign that its outcome will be a matter of caprice. If there are skeptics among us, I suggest that they consider the referendum of May 4 in Ohio this year in which the question of legislative districting was put to the voters in an off year, nongeneral election, and yet 1,200,000 people went to the polls and rejected the proposal of the legislature.

No, Mr. President; it is not majorities that trouble me. I am happy to join with the Senator from Nebraska when he says, "Let the people decide." What worries me is the likelihood of government by plurality.

Let me elaborate. The senior Senator from Illinois, who leads the opposition to this proposed amendment, said here the other day that control of the governorship and one house of his State's legislature was not good enough for his party; he noted that:

> It requires only the control of one house of the State legislature in order to exercise the veto power upon legislation.

And he went on to say, relative to the recently concluded session of the Illinois Legislature, that:

> The Illinois House passed a good deal of legislation which I think the judgment of history will record as being in the public interest, only to have the measures defeated in the senate and the program of the Governor disrupted.

Now, I believe we ought to pause a moment and think through the implications of this statement. I think it is a very frank exposition of the case for government by plurality. Consider: the governorship of Illinois is in the hands of the Democrat Party. The lower house of the legislature, as a result of that celebrated "blindman's buff" election last November, is two-thirds Democrat. Although control of the State senate is in Republican hands, the margin is

small: 33 to 25. In other words, what the senior Senator from Illinois is saying is that, no matter how considerable his party's control is everywhere else, those eight Republican senators have got to be done away with somehow. Plurality rule must triumph.

To tell the truth, I rather suspect that the people of Illinois are rather glad to have that margin of eight Republicans. I do not for a minute believe that the majority of the people of Illinois, regardless of whether they are registered Republicans or Democrats, want their State administered by the mayor of Chicago. I am inclined to believe that a downstate Illinoisan, whether he be Democrat or Republican, is concerned over the prospect of Illinois State policy being tailored to suit Cook County. It would not surprise me to hear that the people of Peoria and Bloomington and East St. Louis really did not know they were installing Chicago as their master when they voted Democrat last November. Under the impact of Reynolds against Sims, the people of Illinois are headed straight toward total government by plurality.

This is the alternative which is presented to us in place of checks and balances. It requires no innate wisdom or extensive familiarity with American history to see that under "numbers only" reapportionment, it is the plurality within the majority party that is the real winner.

Let us not be beguiled by the simplistic slogan of "one man, one vote." No man's vote is any better than the outcome of the ballot he casts. Under a differentiated system of legislative apportionment—such as we have here in Congress—there is at least the chance that the momentum of the well-oiled big city machine will at least be checked. Remove that barrier and you remove a voice in government to those who do not genuflect to the machine.

In a brilliant exposition of the case for the Dirksen amendment last Wednesday, the senior Senator from California said, and I quote:

> Let me warn that the alternative which these critics endorse, yet so skillfully hide, is the haunting specter of unrestrained bossism, which has ever lead to the denial of minority representation. Carried to its fullest implication, this can only mean that such critics are willing to entrust the determination of future State policies and expenditures to a type of popular expression mobilized and controlled by big city bosses.

I could not agree more fully with the Senator from California, and I suggest to my colleagues that, as postwar political events have shown, big city machines have held sway wherever circumstances favored plurality rule. I have only to point to the amateur reform movements which have sprung up—and usually died—in New York, Pennsylvania, Illinois, and California to make my point.

The full flower of organization, money, and discipline that one finds as a hallmark of the machine enable it, like a parasite, to grab the plurality from disorganized and nonprofessional opposition in the party primary or State convention, and moving forward under the official banner of the majority party, seize victory in the general elections.

I wish it were otherwise, but the record is clear. We may prefer a prettier world, but in the words of Lincoln, "We cannot escape history."

Mr. President, in the past few weeks we have heard innumerable references to the Founding Fathers—and rightly so. Their wisdom has served us well over the years.

James Madison stands out as one of the great thinkers of the Constitutional Convention. Yes; he did trust the people—and so do the advocates of the Dirksen amendment. We say, let the people settle this fundamental question for themselves in an open and clear-cut referendum.

We advocate this amendment because we fervently believe that something is about to go out of the American system if it is not adopted. We follow James Madison who said in the Federalist Papers:

> In Republican government, the legislative authority necessarily predominates. The remedy for this * * * is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit.

Mr. President, the proposed amendment expresses confidence in the intelligence, in the integrity of the citizens in this country. I have the utmost faith in them.

I hope the Senate will not reject the dispassionate and farsighted counsel of James Madison. I ask that my colleagues grant the States the right—merely the right—to follow that counsel. I ask the Members of this body to support the Dirksen amendment.

Mr. President, it should be noted that the Governor of my own State, Governor Connally, very strongly supports the Dirksen amendment.

I ask unanimous consent that at this point in the RECORD there may be published an article from the Sunday Star of August 1, 1965, entitled "We Vote for Dirksen."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Sunday Star, Aug. 1, 1965]

WE VOTE FOR DIRKSEN

The Dirksen constitutional amendment, which would modify the Supreme Court's one-man, one-vote ruling, is slated for a decisive test in the Senate this week. Senator DIRKSEN and Senator MANSFIELD, the majority leader, have agreed to seek unanimous consent tomorrow for a showdown vote on Wednesday. If the opponents think they can block the two-thirds Senate vote required for passage of the Dirksen proposal, they presumably will go along with the unanimous-consent appeal. If not, if they do not believe they have the needed negative votes, then a prolonged liberal filibuster is to be anticipated.

We think the Dirksen proposal, in its present form, should be approved. For it has been significantly improved since it was first submitted.

At one time it was feared that the amendment, if finally adopted, would enable State legislatures controlled by members representing a minority of a State's population to apportion one branch of a legislature on factors other than population. In other words, one house of the legislature might continue to be dominated by a minority of the population over the objection of the majority.

This is not true. The Dirksen amendment contains two key provisions. First, assuming ratification of the amendment, a State legislature wishing to act under it would be required to submit two plans to the voters of the State in a referendum. One plan would have to embody the one-man, one-vote concept. The other would authorize apportionment of one branch of a legislature on such factors as the people deem appropriate. In short, at the very outset a majority of the voters in each State would have to approve any modification of the one-man, one-vote rule laid down by the Supreme Court last year.

Furthermore, a recent change in the amendment stipulates that any plan approved in an initial referendum would have to be resubmitted in a new referendum every 10 years.

To us, it seems perfectly clear that the amendment, far from protecting entrenched minorities, would enable the people of the States to have a voice in choosing their own form of government, and to revise their choice should they see fit to do so at 10-year intervals.

What could be more reasonable, more consistent with our democratic process? To oppose it on liberal grounds is absurd. We hope the Dirksen amendment will be called up this week, and that the necessary two-thirds vote to approve it will be forthcoming.

Mr. DIRKSEN. Mr. President, I yield 5 minutes to the Senator from Florida.

Mr. SMATHERS. Mr. President, I am happy to join those of my colleagues who have already spoken in behalf of the Dirksen amendment. It is, to me, a reasonable proposal and a desirable one.

I like to think that the Senate is composed of reasonable men. I have had the high honor of serving here nearly 15 years and I believe that, in the main, my colleagues have proven themselves to be reasonable men.

I believe that, above all, the distinguished minority leader has proven himself a reasonable man. He has time and again placed the national interest, as he saw it, above partisan interest. If he were the leader of the loyal opposition in England I suspect he might be in some difficulty today for this "weakness" of his. I use the word "weakness" because, if we assume that the role of the minority leader in the Senate of the United States is to oppose, embarrass, and generally cause mischief, he has passed up all sorts of opportunities to do it. He is prey to the habit of pursuing national goals first and it does not appear to be an addiction he can—or wants to—break.

Mr. President, the issue of legislative apportionment has been with us a good many months now. It might be said to have first come before us a year ago in the form of an amendment to the foreign aid bill. Perhaps some of my colleagues will recall that issue; it occupied some of our time last summer. There were some who had misgivings about that approach; they wondered about its constitutionality. I, for one, did not share that view, but there is room here for honest differences.

Be that as it may, the proposal before us now is new. When the 89th Congress convened in January, the minority leader, joined by 37 of his colleagues—of which I was proud to be one—came forward with Senate Joint Resolution 2—better known as the Dirksen amendment.

This proposal has been before us for more than 7 months. Prolonged hearings were held by the Subcommittee on Constitutional Amendments with my good friend, the junior Senator from Indiana, in the chair. The minority leader's proposal, and three other resolutions, received microscopic examination during those hearings. Distinguished constitutional lawyers, eminent political scientists, Governors, legislators, and mayors came forward to speak their minds. The subject has received a very thorough airing. I would hope that, by now, we all know what we are talking about.

Mr. President, a moment ago I commented upon the reasonableness of the minority leader. He caught the temper of those hearings. He heard the fears and doubts expressed by several earnest people. He did not share those apprehensions but, because his is of a conciliatory nature, he altered the wording of Senate Joint Resolution 2. When it came time for a vote we had new language. With amendments, Senate Joint Resolution 2 won the endorsement of the Subcommittee on Constitutional Amendments.

As a member of that subcommittee, I am pleased to say that I voted for the proposal. I was prepared to support it, too, in the full Judiciary Committee, but it was quite clear that we had a stalemate that might have lasted until Christmas. So I agree with the Senator that the only thing to do was to bring it before the entire membership of the Senate.

I confess I am somewhat disheartened at the refusal of the opposition, notwithstanding all the discussion that has taken place, to read the language of the proposal before us. It is not the language of Senate Joint Resolution 2 as introduced in January. It is not the language of Senate Joint Resolution 2 as approved by the Subcommittee on Constitutional Amendments in June. It goes further yet to meet the criticisms which have been made.

What is the substance of the Dirksen amendment? The actual language is:

> The people of a State may apportion one house of a bicameral legislature using population, geography or political subdivisions as factors.

Let us pause a moment here. The proposal does not say "both houses." The equal-population rule mandated by the Supreme Court in Reynolds against Sims for one house of the legislature is undisturbed. We are concerned only with one of two chambers.

Secondly, this language categorically limits the other factors to "population, geography or political subdivisions." Some detractors rest their case on the allegation that this amendment will sanction outrageous gerrymandering so as to deny Negroes their right to representation. I think, quite frankly, that they do not have a leg to stand on. "Population" means no more than it says. It does not mean race; it does not mean color; it does not mean national origin; it does not mean income; and it does not mean religion.

Third, judicial review is maintained. There is not a single word in this proposed amendment that would deny Federal-court jurisdiction of any scheme that might be devised to dilute or circumvent the 14th and 15th amendments. Let me read the final clause of the second section:

> Such plan of apportionment shall continue in effect until changed in accordance with law and with the provisions of this Constitution.

Now, Mr. President, there were those who were genuinely concerned with the original provision of Senate Joint Resolution 2 for popular review. It is true that, in its original form, this proposed amendment provided for just one referendum. The senior Senator from Idaho noted this and pointed out that his proposal, Senate Joint Resolution 38, called for "periodic review."

There was much to be said for this view and so, when the Subcommittee on Constitutional Amendments reported Senate Joint Resolution 2, language was inserted to require a referendum within 2 years following each Federal census. If the referendum fails at any juncture—by which I mean 1972, 1982, 1992, or any other time—the entire legislature will be apportioned on the basis of substantial equality of population.

It appears that the fears of the opposition to this proposal revolve around safeguards; in any event, that is what they say. I hope those fears have now been allayed. There are safeguards, as I have shown.

There is not the remotest chance that some States will return to a basis of apportionment that denied population representation in both houses.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. SMATHERS. Mr. President, I request 3 additional minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 additional minutes.

Mr. SMATHERS. There are no grounds for the cry that this amendment will "free the Southern States to continue their racial oligarchy."

There is no basis for the fear that judicial review is barred. The very absence of language to the contrary assures court jurisdiction in legislative apportionment.

There can be no "legislative straitjacket" locking in certain apportionment plans for all time. Decennial referendums will meet that problem. Indeed, I may say that this is certainly one area where my reform-minded colleagues have been outdone. The circumstance that flows from Reynolds against Sims is one in which the people are at the whim of the judicial branch. If there is to be any further change to keep abreast of future developments, it will come only as the result of a plea to the courts.

The referendum clause of the Dirksen amendment represents an imaginative solution to the problem of assuring periodic reevaluation of legislative apportionment. Moreover, the mechanism it creates is placed at the disposal of the people themselves.

Those who still oppose the Dirksen amendment, it seems to me, are put in a very curious position. On the one hand they advocate representation wholly and solely on the basis of numbers. For them nothing else will do. They are fond of saying "trees and acres don't vote, only people." Yet, despite their professed concern for the people—as people—they simply cannot tolerate the idea of allowing the people to settle this issue. Their speeches are full of praise for the people and we hear quotes from Jefferson, Jackson, and William Jennings Bryan, yet these modern-day Populists will not trust the people. The decision, it seems, is too complex, too recondite for the people to decide.

We who support the Dirksen amendment are willing to trust the people; we are willing to take our chances. As a matter of fact, this proposed amendment has now been made so thoroughly permissive that I am at a loss to understand the basis of the opposition's alarm.

Consider this: The Dirksen amendment must be ratified by 38 State legislatures. Today, that necessarily means that several States whose legislatures have been reconstituted by Court order along rigid population lines must give this amendment their blessing. Next, to implement its provisions, both houses of a legislature will have to agree on an alternate plan of apportionment. In several States, where Democrats control one house and Republicans the other, this will be no easy task. Next, before the plan can be put into effect it must survive a popularity contest in a general election. Finally, every 10 years the plan will be put to the test. If it has failed to satisfy the voters it will automatically be scrapped and "numbers only" apportionment will prevail.

Mr. President, the Dirksen amendment, like its namesake, is both reasonable and fair. It represents an effort to strike a balance between the intransigence of some States who brought down the wrath of the Court, and the sweeping revolution that the Court's decisions have worked.

Those of us who support this middle-road solution have the unhappy lot of wading against a stream of misinformation, distortion, and oversimplification poured out by some members of the press. We are accused of trying to save "rotten boroughs" and "undoing" the Supreme Court's decisions.

So ill-informed is some of the information I have read and some of the comment I have heard that I am reminded of the sardonic words of that old newspaperman of another day, Ambrose Bierce. Bierce once defined a conservative as "a statesman who is enamored of existing evils, as distinguished from the liberal, who wishes to replace them with others." While I think that view simply goes to show the depths of cynicism to which people often descend, there is, I think, something pertinent to it. If we who

support this amendment are to be forced, against our will and the merits of our case, into the position of defending the status quo, then I think our opposition ought to accept the responsibility for creating new evils.

What are the new evils? I believe the senior Senator from California described them quite accurately here the other day. He said:

> To those who might be misled, and to all others, let me warn that the alternative which these critics endorse, yet so skillfully hide, is the haunting specter of unrestrained bossism, which has ever led to the denial of minority representation.

I submit that the proponents of "numbers only" apportionment seek to ride the back of a tiger. That tiger appears to be going in their direction today. They are, for the most part, concerned over the neglect of the cities but, rather than remedy that neglect by means of a reasonable and balanced device, they would ride the tiger all the way. They can, like the dictators Winston Churchill described, get all they want from the tiger. They can "turn the tables" on their adversaries and punish them with interest because the tiger is with them today. But what of tomorrow? They would do well to remember that, as Churchill noted, tigers get hungry.

I do not think we are making progress at all if we go from one extreme to the other. That does not solve the problems of the States. I, for one, would like to see a reasonable, fair, and workable solution emerge from the chaos of litigation into which we have been plunged.

Mr. President, I would like to see the Senate put its shoulder behind this proposal. We cannot stand idly by while the turmoil and confusion persists. We have a responsibility to perform and I hope we shall rise to it. Let us pass the Dirksen amendment.

Mr. President, I ask unanimous consent that a letter which I addressed to the Miami Herald be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 28, 1965.

Mr. JOHN MCMULLAN,
Knight Newspapers, Inc.,
Washington Bureau,
1286 National Press Building,
Washington, D.C.

DEAR JOHN: Thank you for your letter of the 22d asking for my views on legislative reapportionment.

1. The answer to your first question is quite simple: Yes, I do favor legislation that would allow States with bicameral legislatures to apportion one of their houses on bases other than strictly population.

2. While it should be left to the people of a given State to determine these bases, I would think that logically such factors as geography, political subdivisions within a State, and well-defined economic regions should be considered in arriving at the make-up of one house of a State legislature.

3. Certainly, I recognize that Florida has long suffered from the effects of malapportionment. However, I do not believe that a strict one-man, one-vote rule, applied to both houses of the State legislature, will remedy the situation. Such a rule makes one of the two lawmaking bodies superfluous, as both would be drawn from essentially the same electorate and would be mirror images of each other.

Most serious of all, the one-man, one-vote dictum, as handed down by the U.S. Supreme Court last summer, denies the logic of our time-tested Federal system, in which interest is balanced against interest, power against power. As the great French political philosopher, Montesquieu, put it over 200 years ago, "If power is not to be abused, then it is necessary in the nature of things, that power must be made a check to power."

To expand a bit, the decisions of the Court regarding legislative apportionment have placed it squarely in the densest undergrowth of the "political thicket" the late Justice Felix Frankfurter warned his colleagues about. The result has been chaos. In California, for instance, a system of apportionment—approved on four separate occasions by the voters of that State and hailed by Chief Justice Earl Warren while he was still Governor—has been thrown out by the Supreme Court's decision. Similar instances abound in the more than 40 States that have patterned their legislatures on the proven Federal system.

In my opinion, so long as the people of a State have the final say, through the ballot, on the matter of legislative reapportionment, the courts should not interfere.

With best personal regards, I am

Sincerely yours,

GEORGE A. SMATHERS,
U.S. Senator.

Mr. PROXMIRE. Mr. President, I yield 3 minutes to the Senator from New Mexico [Mr. ANDERSON].

Mr. ANDERSON. Mr. President, I am opposed to the Dirksen amendment and to constitutional amendments which would serve not the cause of democratic government, but the perpetuation of totally unfair representational systems in many of the State legislatures. It is not with pride that I view the charts which show that in New Mexico 14 percent of the people can elect a majority of the State senate. That is one of the grossest cases of malapportionment in the Nation and it ill serves the interests of a young and growing State.

Normally, a Member of Congress would shy away from entangling himself in the "political thicket" of his State's legislature. But since the one-man, one-vote ruling of the United States Supreme Court, Congress has been involved in this issue—and in my opinion that is proper. The Congress has acted to assure equal rights for all citizens regardless of the color of their skin. It should do no less to assure equal representational rights for all citizens regardless of their address—rural route or city street.

We debated for 3 weeks last summer in this Chamber the wisdom of an amendment which would have delayed, if not blocked, any fair apportionment in both houses of the State legislatures. That amendment having failed, we now are asked to cement into the Constitution of the United States the invitation to unfair representation of one house of a legislature.

What we did approve last September was a sense of the Congress resolution that Federal district courts should allow State legislatures up to 6 months to comply with orders requiring that members of both houses of State legislatures be elected from districts of approximately equal population. We simply were trying to give the State legislatures time in which to do the right things—not an opportunity to longer deny just representation to people. And the rights of people are what is important—not the rights of cattle, fenceposts, and mine shafts.

There are those who contend that our system of Government is strengthened by the checks and balances it incorporates by law and custom. I believe in that arrangement. But I do not subscribe to the subsequent argument that such being true, one house of a bicameral State legislature should be apportioned on factors other than population as a check on the population-based house. I believe that considerations of political boundaries, history, and other elements may be appropriately fitted into the drawing of State senatorial districts. But I do not believe that such considerations should override population. To do so is to encourage legislative deadlock and prevent the constructive statewide policies which are vital to the economic and social progress of our States.

Mr. President, I have prepared a series of tables which show quite clearly that the representational situation in the New Mexico Senate is growing steadily more unfair. In 1950, the 16 least-populated counties each had one senator—16 senators representing 145,475 people, and Bernalillo County, with 145,673 people, had one senator.

In 1960, 22 counties, with a total population of 255,469, each had 1 senator. And it is important to note that most of those counties lost population between the 1950 and 1960 censuses. Bernalillo County, with 262,199, had 1 senator.

By 1970, projections show the 24 least-populated counties will have a total of 385,300 people and, with a senator from each county as provided in present law, they will have 24 senators; while Bernalillo County, with an estimated 375,400 people, will have 1 senator.

I ask unanimous consent that these tables be printed at this point in my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

1970 projection—Counties ranked in order of population

	Population
Harding	2,200
Catron	3,000
De Baca	3,100
Mora	4,700
Torrance	6,000
Hidalgo	7,300
Union	7,300
Guadalupe	7,500
Sierra	7,900
Lincoln	10,200
Socorro	10,600
Luna	13,500
Sandoval	14,800
Quay	15,400
Colfax	15,500
Taos	18,600
Roosevelt	20,400
Grant	21,200
Rio Arriba	22,200
Los Alamos	23,700
San Miguel	25,400
Valencia	38,900
McKinley	41,400
Otero	44,500

24 counties, 385,300 population, 24 senators.

1 county, Bernalillo, 375,400 population, 1 senator.

Counties ranked in order of population, 1950 census

	Population
Harding	3,013
De Baca	3,464
Catron	3,533
Hidalgo	5,095
Guadalupe	6,772
Sierra	7,186
Union	7,372
Lincoln	7,409
Mora	8,720
Luna	8,753
Socorro	9,670
(Los Alamos)	[1] 10,746
San Juan	12,438
Quay	13,971
Otero	14,909
Roosevelt	16,409
Colfax	16,761

Sixteen counties, 145,475 population, 16 senators. One county, Bernalillo, 145,673, 1 senator.

[1] Los Alamos did not have a senator in 1950. Not included in total of 145,475.

Counties ranked in order of population, 1960 census

County	Percentage loss ( ) or gain of population 1950-60	Population 1960
Harding	(37.8)	1,874
Catron	(21.5)	2,773
De Baca	(13.7)	2,991
Hidalgo	(2.6)	4,961
Guadalupe	(17.2)	5,610
Mora	(30.9)	6,028
Union	(17.7)	6,068
Sierra	(10.8)	6,409
Torrance	(18.9)	6,497
Lincoln	4.5	7,744
Luna	12.4	9,839
Socorro	5.1	10,168
Quay	(12.1)	12,279
Los Alamos	24.4	13,037
Colfax	(17.6)	13,806
Sandoval	14.2	14,201
Taos	(7.1)	15,934
Roosevelt	(1.3)	16,198
Grant	(13.6)	18,700
San Miguel	(11.5)	23,468
Rio Arriba	(3.2)	24,193
Curry	40.0	32,691

22 counties, 255,469 population, 22 senators. 1 county, Bernalillo, 262,199 population, 1 senator. Bernalillo, 80. 6 counties showed gain 1950-60, 18 showed loss in population.

Mr. ANDERSON. It is not just Bernalillo County which will have major population gains. Other counties, including Dona Ana, Chaves, Santa Fe, Eddy, and others, will expand too. They will be shortchanged in the Senate if considerations of population lose out to the county lines.

I do not want to take much more time to state my reasons for opposing the Dirksen amendment, but I ask unanimous consent that an editorial which appeared in the Portales, N. Mex., News-Tribune and my reply to the editor, a good friend, be printed at this point. It amplifies my position on this issue.

There being no objection, the editorial and letter were ordered to be printed in the RECORD, as follows:

[From the Portales News-Tribune, July 25, 1965]

THE DIRKSEN AMENDMENT

We hope Senators CLINTON P. ANDERSON and JOSEPH M. MONTOYA remember that New Mexico is a high, wide, and handsome State when it comes time for the showdown vote on the Dirksen amendment.

Senator EVERETT DIRKSEN proposes simply that each State shall have the right to decide in periodic referendums the question of whether one of its legislative houses may be apportioned on some basis other than population.

Senator ANDERSON in particular is well read as to the struggle that marked the principle of area representation in the U.S. Senate. Populous areas resisted to the bitter end.

How different would have been the development of this Nation if the principle of "one-man, one-vote" had applied to the U.S. Senate through the formative years of the Union.

This land of ours is broad, and even in this day of instant communication, less populated areas must have a voice in lawmaking at some level. Quite often the points of view of lawmakers from these less populated areas are needed to temper and balance the herd instincts of the population centers. The system of area representation has worked well in the U.S. Senate, and New Mexico has contributed great voices in times of stress because of this principle. Senator ANDERSON has been one of the most effective of these voices.

It is now apparent that there was nothing but tradition to uphold a similar arrangement in State legislatures, but the Supreme Court has made it abundantly clear that these traditions are not binding. We are now face to face with determining once and for all whether we are all in one big population pot, with no distinction as to area or occupation, as the Supreme Court decision implies, or whether in our highest deliberative body there is a place for the influence of the kind of personality that can bring great dignity and influence on some basis other than having a mass of faceless persons behind him.

The Dirksen amendment, we believe, will restore balance to the legislative process of our States. Without it we hesitate to guess what the future could be of rural areas. The apportionment of the House has restored the imbalance that formerly existed in the State legislature. It isn't possible to use the same formula in the State senate without making that body too large. Shoestring districts would create all sorts of political stresses. Our legislature has adopted a sensible alternative in weighted voting. The Dirksen amendment would uphold this sort of arrangement, if approved by a vote of the people. We can't think of a more democratic way to solving this problem.

AUGUST 3, 1965.

Mr. GORDON K. GREAVES,
Managing Editor, Portales News-Tribune, Portales, N. Mex.

DEAR GORDON KING: I read your recent editorial on the Dirksen amendment with a great deal of interest, particularly since the debate in the Senate on reapportionment is reaching a climax.

Many of those who support the idea of at least one house of the State legislature being apportioned on some basis other than population, hinge their argument on the "Federal analogy;" that is, that seats in the U.S. House of Representatives are based on population while those in the U.S. Senate are apportioned solely by area. In effect, they argue: "What's sauce for the goose is sauce for the gander."

That argument is used to rationalize malapportionment in State legislatures. It is not a valid reason for continuing minority-dominated legislatures. The separate States at the time of the Constitutional Convention in Philadelphia were virtually sovereign. In order to gain the consent of those formally independent States to the creation of a National Government, it was necessary to achieve a compromise between the more populated and the less populated States. The result was the Constitution provided two seats in the Senate for every State and a House of Representatives based on population.

No such historical basis or necessity for compromise brought into being the States. Counties—unlike the original States—do not create a State; rather a State creates the counties. This is the fact that destroys the national analogy.

Moreover, the Founding Fathers believed in population as being the surest basis for democratic representation because the Northwest Ordinance adopted in 1787, the same year as the Federal Constitution, provided that the territorial legislatures, both Senate and House, be apportioned solely on population.

Indeed, the Organic Act establishing the territory of New Mexico in 1850 stated:

"An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and house of representatives, giving to each section of the territory representation in the ratio of its population (Indians excepted), as nearly as may be."

So New Mexico became a territory on a one-man, one-vote basis.

Additionally the New Mexico constitution, adopted at the time of statehood, declared:

"At its first session after the publication of the census of the United States in the year 1920 and at the first session after each U.S. census thereafter, the legislature may reapportion the legislative districts of the State upon the basis of population."

So New Mexico became a State on a one-man, one-vote basis. My vote on the Dirksen amendment should sustain that principle.

Apportionment of senate seats at Santa Fe in the past was far more equitable than it is today when 14 percent of the population controls the State senate. As Albuquerque, Santa Fe, Farmington, Roswell, Portales, Las Cruces and other cities have grown, the less populated areas have continued to either lose population or to remain virtually unchanged. How can anyone justify a situation where a citizen in Harding County has 150 times more the representational power in the senate than a citizen in Bernalillo County? (Projections for 1970 indicate that will worsen to 170 times.) Is there some special virtue in a citizen in Roosevelt County having only about one-eighth the representational strength in the State senate as a citizen in Harding County? I do not believe there is and that is why I oppose the Dirksen amendment.

While it may be possible to arrive at an apportionment of a State senate on a historical, geographical or some other basis, I do not believe that those considerations should serve to create a State senate where malapportionment, from the standpoint of population, is still extreme. I believe strongly in a system of checks and balances. But I do not believe in a system whereby the political power of one group of legislators far outweighs that held by other groups and that this imbalance is established and perpetuated by law. This is the situation that we have in New Mexico.

The Dirksen amendment may be attractive on the surface in providing for periodic referendums on legislative apportionment. The trouble is that there is no requirement that the legislatures be fairly apportioned before such a referendum. I think the words of Senator PAUL DOUGLAS point up the real heart of the case against the Dirksen amendment:

"The right of a citizen to have his vote count with equal weight to that of another citizen in the election of representatives is an unalienable right in our Republic. It is not the prerogative of any majority to reduce this right, nor is it the right of any citizen to give up this right for himself or another person. No citizen of the United States may sell himself nor any other person to bondage or slavery. Similarly he is without power to give up his equal representation in the legislature of his State."

Last year Senator DIRKSEN, through an amendment on the foreign aid bill, sought to block any fair apportionment of both houses of State legislatures. That attempt failed. Having been defeated in that attempt, he is now trying to bar a just apportionment of one house. But that desire runs contrary to what is taking place in many States. Half of the States have already reapportioned both Houses to meet the one-man, one-vote ruling of the Supreme Court of the United States.

I appreciate your statement that as a result of the U.S. Senate being apportioned on the basis of geography, "New Mexico has contributed great voices in times of stress," and that I have been, "one of the most effective of these voices." I have worked closely on a wide variety of problems with Senators who have come from less populous States as well as with those from States with heavy concentrations of people. Frankly, ability, courage, intelligence, honesty, and energy have no relationship to the census figures in the State a man represents.

The present one-county, one-vote arrangement in the New Mexico Senate forecloses opportunities for many capable persons to be elected to represent the growing areas of the State. I am not talking merely about Bernalillo County—this applies to Dona Ana, Chaves and several other counties as well. I do not believe that the legislator from a city is endowed with any more brains or integrity than his colleague from the farm or ranch. But, the large population centers face serious problems which are growing worse. There is no evidence that legislators from large urban areas would ignore the problems of the rural areas. But there is every sign that the lawmakers from rural areas have been ignoring the plight of the cities and for that reason the cities have had to turn to the Federal Government for a wide variety of assistance. That fact has helped increase the bureaucracy of a growing Federal Government.

Those who decry the growth of the Federal Government should read the words of the Commission on Intergovernmental Relations established by President Eisenhower which stated in 1955:

"One result of State neglect of the reapportionment problem is that urban governments have bypassed the States and made direct cooperative arrangements with the National Government in such fields as housing and urban development, airports, and defense community facilities. Although necessary in some cases, the multiplication of national-local relationships tends to weaken the State's proper control over its own policies and its authority over its own political subdivisions."

I am not so sure that the weighted voting plan enacted in the last session of the New Mexico State Legislature is the wisest way to more reasonably apportion the seats in our State senate. It has a number of defects. One of the most obvious, of course, is that while an urban senator may have several times the voting strength on the floor of another senator who comes from a rural area, the urban senator will have no increased voting power in committee or in caucus. And we know that it is the committees of the legislature which have the real power because virtually all bills are passed or rejected on the recommendation of a committee. That is the great flaw in weighted voting.

The problem of the urban and suburban areas cannot be solved simply by giving the senator from the urban area more votes on the floor of the State senate. The cities and their suburbs are not of one mind on any given issue and they cannot be represented by one voice. By giving these growth areas a fairer share of the State senate seats, different viewpoints, including those based on political affiliation, would be achieved. This is the essence of our system of representative government.

I am convinced that this debate on apportionment should not be cast strictly as a city-versus-rural conflict. If we look at it squarely, it is an effort to enable our legislatures to deal effectively with the complexities of a rapidly changing environment and economy. If this issue is resolved with reason, all areas of the State—city, suburb, farm or mining town—will benefit.

Sincerely yours,

CLINTON P. ANDERSON.

Mr. ANDERSON. There is an interesting footnote to the situation in New Mexico. Last week I read a newspaper account that at the recent National League of Cities Convention in Detroit, strong support for the Dirksen proposal was given by a small bloc of States, including New Mexico. The National League, however, endorsed the one-man, one-vote decision by about 4 to 1. I was curious as to why New Mexico was placed in the column supporting the Dirksen amendment.

I learned that the principal New Mexico representative to the convention was the mayor of Santa Rosa, who is also president of the New Mexico Municipal League. He cast a bloc of votes for the Dirksen amendment. I better understood his vote when I looked up the census figures. Santa Rosa gained only 21 people between 1950 and 1960 and its county, Guadalupe, declined over 17 percent in population in that decade. I take no pleasure in that. I want to see all of the communities in my State growing and prospering. But rural towns in New Mexico and in other States have either not grown or have lost population. The mayor's support for the Dirksen amendment, I feel, does not reflect either the attitude or the needs of the urban population of my State.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I yield myself 2 minutes.

Mr. President, those who support the Dirksen amendment recognize what has been a great tide in our Nation's values and dreams.

For almost 2 centuries the force of our democratic convictions has led men to fight continually for the expansion of our suffrage. For example, of the 14 amendments to the Federal Constitution which followed the adoption of the Bill of Rights, 9 of those 14 amendments were designed to make the franchise more democratic and give more Americans full voting citizenship.

Now, for the first time, there is proposed an amendment that would reverse that process and would write into the basic constitutional law a provision that for crucial elections in State legislatures 1 man's vote literally counts as 10, while another man's vote might count as one-tenth.

Is it right that we should deliberately alter our Constitution to make one man's vote worth less than another's? This has happened in America in the failure of State legislatures to apportion but rarely by explicit calculation, and never, not ever, never before by amendment to the Constitution.

The fundamental issue before the Senate is whether Congress should amend the Constitution to provide that, regardless of the interpretation of the 14th amendment, one man's vote can be considered of less value.

Mr. President, I yield 10 minutes to the distinguished Senator from New York.

Mr. KENNEDY of New York. I thank the Senator from Wisconsin.

Mr. President, perhaps I can contribute to the present debate by offering a brief comment on why the Federal Government has taken such a strong interest in the problem of State legislature apportionment.

In 1958, President Kennedy—then a Senator from Massachusetts—wrote in the New York Times an article entitled "The Shame of the States," which demonstrated that malapportionment of the State legislatures was a major cause of urban problems.

After discussing all the frustrations and problems of the cities, and their intimate connection with the prevailing malapportionment, the Senator concluded with the discouraging statement that "The great difficulty in stating these problems is that there is no apparent solution."

In 1961 when President Kennedy took office the opportunity was at hand to do something about the problem. The Supreme Court had the previous November agreed to hear a case challenging the persistent malapportionment of the State legislature in Tennessee. This case was, of course, Baker against Carr. Its facts presented the Supreme Court with a particularly good illustration of the prevailing malapportionment and its effects. In Tennessee one-third of the voters, coming from rural areas, were electing two-thirds of the legislature. The results were manifest—the rural areas had, for example, been treated to distribution formulas for school aid and highway funds which obviously discriminated in their favor. And the situation in many States was far worse than that in Tennessee. In Kansas, Delaware, Florida, Vermont, and Connecticut, for example, the majority in the lower house of the legislature were elected by 22½ percent, 19½ percent, 17 percent, 12½ percent, and 9½ percent of the population, respectively.

These disparities in representation had deprived urban citizens in particular of effective State help in meeting their problems. The malapportioned legislatures had really, in fact, ceased to provide progressive legislation for the people of their States generally. This failure had caused urban communities to look to Washington to help, but it was obvious that the Federal Government could not solve all the problems by itself. We concluded, therefore, that we should urge the Supreme Court to reverse its previous refusal to adjudicate apportionment cases. We felt that if the Court did agree with the plaintiffs in Baker against Carr and with us, the logjam created by malapportionment might be broken and the State legislatures might recapture their proper status in our federal system.

The arguments which we made to the Supreme Court in the Baker case regarding the effects of malapportionment reflected the discussion which had gone

on in the executive branch. We pointed out that State legislatures used to be effective formulators of policy on the domestic level. Thirty years ago, we said, Justice Brandeis had praised the State legislatures as laboratories which could "try novel social and economic experiments without risk to the rest of the country." Partly because of failure to reapportion, the State legislatures had failed to adapt themselves to modern problems and majority needs, particularly in urban areas.

The Court's holding in Baker was only the beginning of the administration's commitment in this area. The following year Gray against Sanders, in which the plaintiffs challenged Georgia's county unit system of electing its statewide officials, came before the Court. Although the case did not involve State legislatures directly, it was clearly related.

Gray against Sanders and the Court's later decision in Wesberry against Sanders, regarding the apportionment of congressional districts—in which the United States again appeared as a friend of the Court—set the stage for the critical cases which the Court heard in late 1963 and decided in June 1964. These were the cases in which the reach of the 14th amendment in the area of reapportionment was to be determined. These were Reynolds against Sims, Lucas against Colorado, and others—challenging in all the legislative apportionments in Alabama, Colorado, Delaware, Maryland, New York and Virginia.

This was the key time—the time when we would find out how far the Supreme Court was willing to go to force open the door to State legislative reform. We talked to lawyers and law school professors all over the country, asking them for their advice on the position which the Federal Government should take. Discussions were carried on throughout the executive branch—not only within the Justice Department, but among a number of Federal agencies and including a number of high officials who were interested in the problem.

Ultimately, we decided that if each citizen's vote were to have the weight and significance it deserved, the equal protection clause had to be regarded as prohibiting any substantial departure from representation on a per capita basis in either house of a State legislature.

The matter was then taken personally to President Kennedy. Again we had a far-reaching discussion about the meaning of the problem in relation to getting an effective State contribution to the problems faced by individual citizens, particularly in the cities. He agreed that if substantial departure from per capita representation were permitted even in one house, the result would be stalemate and the same old story of legislative paralysis.

I have gone into the detail I have because I want to explain why the Department of Justice, on behalf of the Federal Government, took such an interest in the problem. We believed that the matter should not be taken lightly. And for this reason the ultimate decision was not made by the Solicitor General or the Attorney General, but, after consultation throughout the whole of the Government, and among professors and lawyers, by the President himself.

We all know of the Court's consequent holding.

Now we are confronted by a proposed constitutional amendment which would effectively set us back to where we were before Baker against Carr.

Make no mistake about it. One malapportioned house can in many cases be as bad as two. History demonstrates this. Throughout the hearings and in debate on the Senate floor we have heard example after example in State after State—in Missouri, Iowa, Illinois, New Jersey, Michigan, and others—where the fairly apportioned house passed progressive and badly needed legislation and a majority of the malapportioned house, representing a minority of the people, blocked it.

And it is important to note the significant progress which has occurred as a result of the Supreme Court's decision.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a memorandum describing the accomplishments of reapportioned legislatures in Colorado, Delaware, and Michigan, in contrast with their failures before reapportionment.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

The records of the States in which reapportionment has occurred are most instructive.

Colorado concluded the main session of its 45th general assembly early in May. It was the first legislature elected under the one-man, one-vote rule, and the session was one of the most fruitful in years. Lee Olson of the Denver Post wrote that "much of this legislation supports the conclusion that Colorado, along with many other States, has turned a highly significant corner in its political life." One young Denver lawmaker was quoted as saying that: "We passed things which should have been passed 10 years ago. The rural bloc simply sat on the lid too long—and now it's off."

Among the many accomplishments of the legislature were: enactment of a fair housing act, extending the right of minority groups to buy any housing or commercial property, the repeal of all State sales taxes on food, and greatly increased aid to higher education.

A second State now apportioned on a population basis in both houses—though there are additional Court tests pending—is Delaware. The impressive record of legislation enacted this year in Delaware includes adoption of the State's first minimum wage law after a struggle of some 13 years; a model wage payment and collection law; two consumer bills; improved workmen's compensation; and additional days for voter registration.

A third reapportioned State is Michigan, whose 73d legislature—the first elected on a one-man, one-vote basis in both houses—recently concluded its first session. It was the most productive session in Michigan history.

Before reapportionment, a bill providing an unemployment increase of $3 was killed by senators representing 2.4 million people despite support for the bill by senators representing 3.5 million. This year the Michigan Legislature passed a bill increasing unemployment benefits by 20 percent, and extending coverage to an additional 60,000 employees.

Before reapportionment, workmen's compensation amendments were killed by senators representing 2.9 million people despite support for them by senators representing 3.5 million. This year the legislature passed a vastly improved workmen's compensation bill. A worker hurt on the job after September 1 will receive the highest benefits of any industrial State. The new law also broadens coverage to take in another 120,000 persons.

Before reapportionment, the addition of several hundred desperately needed mental health beds was blocked by senators representing 2.8 million people despite support for the measure of senators representing 3.1 million. This year a broad new mental health program was enacted, covering everything from increased support for community mental health services to ratification of an interstate compact on mental health.

Reapportionment in Michigan benefitted citizens from all parts of the State. New legislation for the aged, ranging from tax relief to expanded old-age assistance to a prohibition on discrimination in hiring because of age, was enacted. Record increases in aid to elementary, secondary, and higher education were enacted. The legislature enacted significant legislation relating to conservation, water pollution, and air pollution.

And rural Michigan benefited directly as well as indirectly—a fact which is extremely important.

The legislative counsel for the Farm Bureau in Michigan characterized the record of this year's newly reapportioned legislature as "friendly" to the needs of agriculture and "especially productive of good farm legislation." The legislative representative of the Michigan State Grange has said that this was the best legislature in years in terms of the needs of agriculture. The list of the major agricultural bills passed is most impressive:

1. A unified meat inspection bill which will assist Michigan livestock raisers in marketing and assure the consumer of a quality and sanitary product.

2. A unified dairy inspection bill to end duplicate inspection problems.

3. A bill which created a bean commission and strengthened the potato and other commodity commissions to help commodity groups do a better job in marketing their products and help increase the farmers income.

4. A bill to allow contractual labor to be employed on the same basis as in the past.

5. Bills to improve the State's feeds, seeds, fertilizer, and lime laws for the protection of the farmer.

6. Bills to improve the plight of migrant workers while not increasing labor costs for the farmer.

7. Bills to protect the public against the sale of cracked and checked eggs, botulism and many other bills important to the Michigan Department of Agriculture and the consumer.

There is one other point about the Michigan experience which deserves notice. The reapportioned Michigan Legislature took some first steps toward making itself more efficient. Research, legal, and other staff services were increased; needed space was appropriated to alleviate the previously cramped working conditions; and the capitol was generally brightened up.

After the session, House Speaker Joseph J. Kowalski said:

"For the first time, we truly have a committee system operation. Committees are no longer functioning as rubberstamp bill-passing groups; they have learned the particular area of State government assigned to them. There have been more committee meetings so far this year than at any time

during the past 20 years. And the committees have heard 10 times as many witnesses as had ever appeared before."

These structural reforms were no accident. Julius Duscha recently pointed out in an article in the Washington Post that the reapportionment decisions appear to have stimulated structural reform in the State legislatures in a number of States. He observed that since many of the representation schemes rendered unconstitutional by the Supreme Court's reapportionment decisions are contained in State constitutions, there is an inevitable prod to State constitutional reform. Rhode Island and Connecticut are holding constitutional conventions this year, and Idaho, Kentucky, and West Virginia have taken some steps toward constitutional reform.

Mr. KENNEDY of New York. Mr. President, the Michigan experience is particularly significant, because it demonstrates the responsiveness of the reapportioned legislature to rural as well as urban needs, and the tendency of a reapportioned legislature to be interested in structural reform.

The record shows that, under the prod of the Supreme Court's decision, our States—at least some of them—have begun to move. What President Kennedy called the shame of the States may turn to pride if we refrain from disturbing the process which the Court set in motion with its holding. This was a major interest of the Federal Government in entering the litigation in the first place, and it is a major interest of the Federal Government today. I urge the Senate not to turn the clock back on this process. I urge the Senate to reject the Dirksen amendment.

I urge the Senate not to turn the clock back to the past. I urge the Senate to reject the Dirksen amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. KENNEDY of New York. I yield.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from New York for an excellent speech.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. PROXMIRE. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 2 minutes.

Mr. PROXMIRE. Mr. President, is it not true that in the State of Michigan, for many years, it was difficult to get legislation passed. For example, when Gov. G. Mennen Williams was elected with a strong popular mandate, a situation existed in which the lower Michigan House was elected by a popular vote, and the State senate apportioned in accordance with geography blocked bill after bill, although senators representing the majority of the people, but a minority of the State senate, voted for the Williams legislation.

Mr. KENNEDY of New York. Mr. President, I can cite a few specific examples of what happened prior to the time of the Supreme Court decision.

Before reapportionment, a bill providing an unemployment increase of $3 was killed by senators representing 2.4 million people despite support for the bill by senators representing 3.5 million. This year the Michigan Legislature passed a bill increasing unemployment benefits by 20 percent, and extending coverage to an additional 60,000 employees.

Before reapportionment, workmen's compensation amendments were killed by senators representing 2.9 million people despite support for them by senators representing 3.5 million. This year the legislature passed a vastly improved workmen's compensation bill.

In the memorandum I have submitted, I have examples of three or four major pieces of legislation which were defeated in the legislature of the State of Michigan by the time of reapportionment.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from New York. I believe that his speech demonstrates that there are practical benefits in rejecting the Dirksen amendment and enabling our State governments to move ahead under the Reynolds against Sims decision with both houses based on population. The State governments have been encumbered by malapportionment. They have been blocked and unable to act. Because of inaction by the States, it has become necessary for the Federal Government to move into areas into which the States should have moved.

The speech of the Senator has been a most practical and helpful contribution to our understanding of the problem.

Mr. KENNEDY of New York. Mr. President, I wonder if we have devoted enough attention to the civil rights implications of the Dirksen amendment. Its adoption, I would suggest, could result in nullification of much of what we were trying to do just two and a half short months ago when we passed the Voting Rights Act of 1965. Its adoption could make a mockery of our scheduled action tomorrow to approve the conference report on the Voting Rights Act.

Why is this so? Certainly the Dirksen amendment as first introduced could have been far more discriminatory in its effect. The broad "factors other than population" language might have allowed racial factors to be used as an explicit basis of apportionment. That language has been replaced with an enumeration of particular factors which may be used, an enumeration which excludes race as a factor.

Nevertheless, racial discrimination in the operation of the Dirksen amendment is inevitable.

Consider first a State in which Negroes are substantially underregistered due to previous discrimination. It will be some time before the new Voting Rights Act results in the registration of all of these Negroes. In the meantime a legislature elected by the existing electorate will be formulating a reapportionment plan under the Dirksen amendment to put to the people for a vote. Who doubts the result? A way will be found to keep the Negro a political cripple indefinitely.

Former Assistant Attorney General Burke Marshall made this point particularly well in his testimony before the subcommittee:

We have seen again and again in the States I have referred to, and in others, the lengths to which the majority of voters will go—even complicating very seriously the methods by which they become registered themselves—to find ways of keeping Negroes from gaining any political voice. It is for this reason that the Constitution thus far has prohibited the majority, even through democratic means, from depriving members of a minority group of their right to be treated fairly under the law.

The Negro's subsequent registration and realization of the franchise will be of little help to him.

Even if the referendum on the reapportionment plan occurs after the Voting Rights Act has been operative for long enough to have had some effect, the result will very likely harm the Negro. The plan put to the people will still have been shaped by the malapportioned legislature which wants to preserve the old order. It still would not be a fair fight.

More broadly, the amendment will discriminate against Negroes and other minority groups through its effect on badly needed urban legislation. This, of course, holds true for the entire country—North as well as South.

Earlier today I discussed how malapportionment—even in only one house of a legislature—has blocked significant pieces of progressive legislation. This discrimination against our Nation's cities is especially bad for the Negro because, as Burke Marshall testified, it "proportionally deprives Negroes of a political voice more than any other identifiable group. In 1960, over 72 percent of Negro Americans lived in urban areas. There is every indication that this percentage is increasing, and increasing rapidly." And, of course, it is the Negro who feels most keenly the burden of the problems which the legislatures have tended to ignore.

Comparative census figures for 1950 and 1960 are revealing. In my own State of New York, the urban nonwhite population rose by 525,000 during the 10-year period, as against an increase in the rural areas of only 12,000. New York State in 1960 counted nearly 1½ million nonwhites—primarily Negro and Puerto Rican—in its urban areas, and less than 50,000 in rural sections of the State. The figures for the Middle Atlantic States as a whole are similar. Between 1950 and 1960 the urban nonwhite population rose by nearly 1 million people, while the increase in rural areas amounted to just over 10,000.

In Illinois the increase in the urban nonwhite population between 1950 and 1960 was over 400,000, while the rural nonwhite population actually declined by 100 during the same 10-year period. Indiana experienced a rise of nearly 100,000 in its urban nonwhite population between 1950 and 1960, as against an increase of 1,000 in the rural areas. The east north-central region as a whole follows the pattern of Illinois and Indiana. In the same 10-year period the urban nonwhite population rose by more than 1,100,000—while the rural nonwhites, constituting less than 5 percent of the total nonwhite population in the region, showed an increase of less than 12,000.

The situation is the same in California. Between 1950 and 1960 its rural nonwhite population rose by a meager

12,000—while the increase of nonwhites in the urban areas amounted to over 575,000. The Pacific region as a whole showed an increase of rural nonwhites amounting to 160,000 as against a 970,000 rise in the urban areas.

Mr. Marshall's testimony showed the South to be following the same trend, only perhaps more markedly:

> In Alabama * * * the percentage of nonwhites living in urban areas went up 23 percent between 1950 and 1960, while those living in rural areas went down almost 20 percent. In Mississippi the comparable figures were 27.6 percent increase against 2.5 percent; in Louisiana, over 200 percent as against 8.6 percent. Of all the Southern States, only Florida showed any increase in the nonwhite population in rural areas, and that increase was slightly over 1 percent as against 71.3 percent in urban areas.

This marked increase of nonwhite—primarily Negro—population in the urban areas underscores the discriminatory nature of the Dirksen amendment. Negroes, Puerto Ricans, and other deprived minorities are city dwellers—and are becoming more so. Perpetuating the antiurban balance of power in the State legislatures, therefore, would jeopardize any hope that these minorities have of obtaining significant help at the State level in their struggle for equality of economic opportunity, better housing, and better schooling.

As Burke Marshall wrote to the chairman of the Subcommittee on Constitutional Amendments [Mr. BAYH]:

> It seems to me that * * * giving the States the power to weigh rural votes more heavily than urban votes in itself will prove to be another disadvantage added to the many substantial ones already inflicted upon our Negro citizens.

Support of the 1965 Voting Rights Act and of first-class citizenship for all Americans requires us to defeat the Dirksen amendment.

Mr. DIRKSEN. Mr. President, I yield 10 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. HRUSKA. Mr. President, in rising to speak in support of the Dirksen amendment, I want to comment on some of the cynicism that has been hovering around this issue.

I have heard it said that people among the States are not interested in this proposal and should not be allowed to vote on the subject anyway. I have heard it said that if the Founding Fathers of our Nation had wanted the States to have a full voice in legislative apportionment, they would have spelled it out in the Constitution. And, I have heard it said that what we are proposing verges on being undemocratic.

Let us put some of this cynicism to rest here and now. First off, we are proposing to deal with this apportionment issue in a manner prescribed by the Constitution itself. In their wisdom, our Founding Fathers foresaw that clarification and additions to the Constitution might be required and to this end they purposely added an amending clause. We plan to utilize that clause and I ask this simple question: What is more democratic than following the language of our Constitution in seeking a clarifying amendment that gives people the right to vote and to make decisions at the State level?

I particularly resent the type of cynicism that puts forth only words of scorn and belittlement for the heroic labors and the wisdom of those men who drafted our Constitution. They were not just a flock of sheep drifting before the wind, nor were they men who could not distinguish the good guys from the bad guys or gray areas from black or white areas. They knew they were, in drafting the Constitution, engaged in a search for answers that would be tested by both prolonged debate and time. They sought language that would dwarf and restrain selfish and fanatical narrowness. They knew that the closer Government could be kept to the people the safer this Republic would be. They knew that with growth and change in the Nation, clarification of constitutional intent and purpose might be required. The amending clause of the Constitution which we propose to utilize, article V, attests to their wisdom on this score.

As to the determination of these men that the Nation's Government should suit the needs of the people, what better words of emphasis can be used than those of John Adams when he said:

> Our people must be consulted, invited to erect the whole building with their own hands upon the broadest foundations.

To those who attempt to argue that we should not be tampering with the Constitution on such a subject as legislative apportionment, I have two answers. One is that we are not engaged in either the unusual or the unexpected. As recently as 1913 there was an amendment of a similar nature. At that time it was felt there was need for clarification and improvement in procedures to be followed in the electing of men to this august body. The language and the protections desired were not in the original Constitution. All Senators, I am sure, have had occasion to read the 17th amendment to the Constitution, providing for the popular election of Senators. Let me say that if it had not been enacted back in 1913 or at some date since, we would with certainty be debating such a proposal here today. All of us know the amendment serves a valuable purpose.

We face exactly the same situation here today in regard to State legislative apportionment. Conflict exists between what the voters in many States have long cherished as an inherent right—the right to participate in fundamental decisionmaking—and the current Court interpretation of the meaning of existing constitutional language governing apportionment at the State level. We are confronted with one of those things that the authors of the Constitution anticipated—the need for a clarifying amendment. Sentence by sentence the procedure to follow in bringing about this clarification is spelled out in the Constitution. We as Senators know the procedure and we have the language before us today that presents and solves the issue.

And what is that issue? In simple language it is whether we are to rely upon the people in the various States to determine, under guidelines which we supply, how one house of their State legislature shall be apportioned. The men who wrote our Constitution had faith in the people and they leaned heavily upon this faith just as we must. Read the language of section 1 of article IV of the Constitution, for example, and these words will be found:

> Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State.

Faith existed that the States can be trusted to use reason and fairness and that they would be constant in their efforts to make words like freedom, rights, and liberties understood, appreciated, and respected.

Actually, this issue resolves itself into a question of freedom to participate. If the American people are to be protected from tyranny they must be able to thwart all efforts of any faction to grab power and erode the strengths of our constitutional system. The arbitrary use of power is a basic evil that can become the real enemy of human progress. We must therefore never dare to forget that we are the heirs of an earlier revolution through which men gained freedoms never before enjoyed and that those freedoms will remain with us only so long as they are protected.

None of us in our lifetime has ever before been called upon to guard quite so vigilantly such truths as these in application to legislative representation. As legislators we must deal honestly with the mechanics of preventing a further erosion of the people's rights in the various States. The courts have told us that old interpretations of the Constitution as they apply to legislative apportionment in the various States are incorrect. A vacuum has been created which we cannot afford to let continue. To fail to act will add fuel to the process of erosion that will stimulate a sweeping grab for power by the political bosses of the Nation's big cities. In fact, I believe the dominant theme of this debate should be whether we are willing to surrender the rights of the individual voter in the various States to an extent that will lead the bosses of about nine big cities to try to dominate the Nation. We think the people of each State should have the right to determine how much will be surrendered. They take the position we have no choice but to surrender.

Frankly, I do not believe our opponents will find much support for their position anywhere in the Nation once the significance and the attendant dangers of their negative position on this matter become known and understood. The goals of our society can always best be realized through free and open decisions by the voters. Such goals, we all know, can never be achieved with safety and without sacrifice to the eroding processes designed to increase the centralization of power.

Now to this vacuum which is still obviously unfilled despite the numerous

court decisions and the self-help efforts of individual legislators:

The Supreme Court decisions have for all of us created an unprecedented situation. To put it mildly, they have been far-reaching and they have been history making. But as realists we also know they have created in many States what can inelegantly be called a mess. Politics being what it is, there have been loosed efforts at self-preservation that have compounded the troubles in some States and in others the courts have themselves added materially to the confusion. Some measure of the difficulty is found in the words of State Supreme Court Justice Matthew M. Levy, of New York, when he described one reapportionment plan that had been offered as nothing more than a "launching pad" for further litigation.

Those who have indulged in wishful thinking and hoped the courts would be able to pick up the problem, examine it, make certain adjustments and return it as a complete and workable program nicely wrapped in a single pretty package just do not understand the problem. The wondrous ramifications related to a complete shift in balance of political power in a nation such as ours do not lend themselves to simple packaging. I think the developments of recent weeks and months have well proved my point. You can technically get rid of a vacuum by lifting the lid, but you will have an empty space to deal with still, and such empty spaces are always dangerous.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, I yield 2 additional minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, there are many able students of the subject who will quickly agree that the courts, in trying to adjudicate apportionment State by State, have actually added to the frustrations of all. The history of court actions on this subject is long, varied, confusing to read, and complex in seeming purpose. In fact, I believe we, as Senators, owe it to ourselves to become familiar with some of the legal complexities and uncertainties involved. We owe it to ourselves to follow Al Smith's advice and look at the record, even though that record is changing so fast a course in rapid reading is required to keep pace with the almost daily changes. It makes the logic of the constitutional amendment approach much more understandable.

I ask unanimous consent that summaries of the legal situations in several of our States be set forth in the RECORD at this point.

There being no objection, the summaries were ordered to be printed in the RECORD, as follows:

NEW JERSEY

The State supreme court, in a 1960 ruling, anticipated the Federal high tribunal's decision in *Baker* v. *Carr*. In *Asbury Park Press* v. *Woolley* (33 N.J. 1, 161 A. 2d 705) the New Jersey court concluded that it had the power to compel reapportionment and notified the legislature that it had better act or "face the music." The legislature obliged at its next session and the State court laid the issue to rest. After last June's Supreme Court decisions, however, New Jersey's high court again declared the legislature malapportioned. The State's lawmakers were commanded to call a constitutional convention and, in the meantime, to enact a temporary plan for the regular 1965 election.

TENNESSEE

Tennessee, the offending State in *Baker* v. *Carr*, was ordered by a Federal district court to redraw its legislative districts in a 1962 special session. Following passage of reapportionment acts, the district court found both unconstitutional but ordered their use, nonetheless, for the November election. The 1965 legislature then adopted new districts for each chamber, winning approval only of its plan for the House. The court found the Senate apportionment unconstitutional but backed away from finalizing action until the Supreme Court disposed of six cases before it. With the announcement of the flat one-man, one-vote rule in the *Reynolds* case, the Federal court retrieved its blessing of the Tennessee lower house apportionment and ordered the implementation of districts drawn in the city of Nashville—if the legislature, by June 1, 1965, failed to pass palatable alternatives. The legislature met this May to adopt the third comprehensive reapportionment in as many years. The fruit of its labors once again awaits the sanction of the judiciary.

WASHINGTON

Both houses of the Washington Legislature were found to be malapportioned in 1962 by a Federal court which, even before the rendering of *Lucas* v. *Colorado*, shrugged off the voters' rejection of an initiative ballot proposition calling for straight population apportionment. Following the Supreme Court's approval of its action in 1964, the lower court consented to allow the upcoming legislative elections to be held on the basis of unconstitutional districts but foreshortened all legislators' terms to 1 year and devised a weighted voting scheme for the 1965 legislature to use. Then the judges changed their minds, scrapped the weighted voting and short terms, and substituted a flat that the lawmakers could do no other business than reapportionment until acceptable districts were enacted.

HAWAII

On the heels of *Reynolds*, a suit was filed in the State's high court but that tribunal, although acknowledging the present apportionment to be unconstitutional under the Federal supremacy rule, declined to grant injunctive relief and the suit was dropped. Following the inability of the legislature to agree on a new districting basis that summer, apportionment was again challenged—this time in Federal court—in *Holt* v. *Richardson* (238 F. Supp. 468). The court put off action until after the elections then, in February 1965, although commenting that it was "not prepared at this time to accept plaintiff's premise that total population is the only basis upon which apportionment of State legislatures can constitutionally be based," it took a tough line with the legislature. Key sections of the State constitution, calculated to leaven what was otherwise a substantially population-apportionment with geographic realities, were nullified. The legislature was ordered to call a constitutional convention and, taking no chances, a gun was put to its head in the form of a prohibition against its taking final action on any other legislation until it had complied. When a stalemate developed between the senate and house over the convention call, the court relented somewhat but uncertainty and confusion persist to this day.

MICHIGAN

One of half a dozen States to enjoy judicial blessing of its legislative apportionment today, Michigan has traveled a tortuous road. A 1963 State constitutional provision giving overwhelming advantage to population in districting both houses of the legislature was first sanctioned, then scrapped by the Federal judiciary. Meanwhile, a State-constituted apportionment commission failed to agree on districts for the 1964 election. Accordingly, the State supreme court provisionally adopted a plan of its own and waited to see what breezes would blow from *Reynolds* v. *Sims*. The Supreme Court's dictum buttressed their invention and Michigan became one of two States to elect legislators on the basis of court-devised districts last fall.

OKLAHOMA

Oklahoma was the other. Taking a tough line, the Federal court first rejected apportionment laws enacted by the legislature in 1963, then nullified a constitutional amendment adopted in the 1964 primary election—as well as the primary election itself. A new primary, on the basis of districts contrived under the court's direction, was held and the nominees selected through it in September went into the November finals.

GEORGIA

Georgia, on the other hand, has benefited from a soft line by the courts. The most recent decision—on April 1 of this year—gave the legislature 3 years to accomplish apportionment. Georgians were not spared confusion, however. First the Federal district court, trying its best to find the logic of *Baker* v. *Carr*, declared it would be sufficient for the legislature to base just one house on population and the Senate was districted on a one-man, one-vote basis. The court decided, however, that it couldn't be constitutional to mix single- and multimember districts in the same apportionment. Those tough decisions having been made, the lower court rested from its labors, only to be jolted by the Supreme Court's revelation that the 14th amendment requires population districting in both houses of a legislature but is indifferent to the question of whether some districts might have 2 or 12 senators while others have just 1. Now distraught, the district court ruled that legislators elected in 1964 could serve but 1 year and could conduct no investigations. Left uninstructed by the Supreme Court when the matter was taken up on appeal, the lower court backed off by deciding to give the legislature until 1968 to finish the job.

NEW YORK

New York has been through the wringer on reapportionment. First, a Federal court ruled that the subject was "nonjusticiable" and was contradicted by the Supreme Court. Then the district court examined the State's apportionment laws and concluded they were sound. Again, the Supreme Court disagreed. Following the announcement of *Reynolds* and its companion cases, the same district court imposed a 10-month deadline on the New York Legislature to redistrict and, for good measure, truncated the members' terms of office. Governor Rockefeller summoned legislators into special session following the November election and, within 3 weeks, the court had three plans to choose from. The judges selected one and it became the basis for the November 1965 election even though violating the State constitution by increasing the membership of the assembly. The scene was thus set for one of the few instances in which Federal and State courts have "gone to the mat" over reapportionment. New York's court of appeals struck down the new districting act on the rationale that size of the legislature was not one of the State constitutional provisions automatically invalidated by *Reynolds*. The Federal court won the confrontation, notwithstanding certain prior admonitions from Washington that Federal judges should be guided by State jurists' interpretations of State law.

ILLINOIS

Illinois, too, has gained some notoriety over its reapportionment woes. When, in 1963, an impasse developed over decennial reapportionment of the house of representatives, the State supreme court declared that at-large districting would prevail in 1964. Predictably, the majority party captured all the seats it sought in the "blind man's buff" election which resulted in Adlai Stevenson's son leading the Democratic ticket and Dwight Eisenhower's brother outpolling all other Republican candidates for the house. Litigation over reapportionment of the Illinois Senate has led to a showdown between the Federal and State courts with the jurisdiction of the latter being upheld this past June by the Supreme Court—apparently on the basis that the State judges have shown a greater predilection for being tough.

CONNECTICUT

The people of Connecticut had to forgo the privilege of electing their legislators last year. A special session of the legislature failed to devise a plan meeting the Federal court's requirements and the jurists responded by simply holding over its members and canceling the election. Backing up a January 30 deadline to the legislature with appointment of Yale's computer expert as a special master on a standby basis, the court amassed such pressure on the legislature that it came up with a temporary apportionment for a special election to be held this November. Having thus submitted, the lawmakers were rewarded by being permitted to deal with other legislative business this spring.

IOWA

Iowa's Senate was reapportioned by the 1961 legislature in a session which also saw initial approval given a constitutional amendment providing substantially greater weight for population in districting both chambers. The new apportionment was sanctioned by the State supreme court 2 weeks prior to *Baker* v. *Carr*, then junked by a Federal district court. In a special 1963 election, Iowa voters, although predominantly urban today, rejected the constitutional amendment. Nevertheless, the Federal court, following up on its previous action, ordered the preparation of temporary legislative districts for 1964. Now those districts have been thrown into limbo with the election out of the way and the Iowa Legislature, overwhelmingly composed of first-term legislators, is under court order to come forward with still another temporary plan for 1966.

NEBRASKA

In the general election of 1962 the voters of Nebraska approved an amendment to the State constitution which modified the heretofore strict population rule to the extent of prescribing consideration of area in legislative apportionment. The permissible deviation was set at 20 to 30 percent. A month after the *Reynolds* doctrine was promulgated, however, a Federal district court, in *League of Nebraska Municipalities* v. *Marsh* (209 F. Supp. 189), declared both the constitutional amendment and the implementing statute to be unconstitutional. The court permitted the 1964 legislative elections to be held as scheduled but mandated the 1965 regular session to reapportion itself on a strict population basis. For 3 months the Nebraska Legislature wrestled with this problem. Three major proposals were put forward, all of them providing for an increase in the size of the legislature. As the weeks passed, it became apparent that the plan offered by Senator George Gerdes, of Alliance, L.B. 628, offered the greatest prospect of enactment. This bill proposed to add two senators to Omaha's present 11-member delegation and combine Districts 16 and 18, in the northwest corner of the State. This bill won committee approval on March 4 and, following 3 weeks' debate, was passed by the legislature on March 29, 40 to 5. (I might say, by the way, that 2 days afterward the legislature approved Resolution 14 asking for a constitutional convention on legislative apportionment. Governor Morrison, who is a Democrat, signed both measures.) On May 12, by a split vote, the Federal judges held this reapportionment act—with a population variance of only 1.5765 between the largest and smallest districts—invalid. The court true to the pattern we have seen, declined to formulate any standards of its own. It gave the legislature until July 15 to do the job over. The legislature, exhausted by wrestling with both State and congressional apportionment at the same session, was unable to comply. The bleak prospect, therefore, is that we shall have at-large elections in 1966.

Mr. HRUSKA. Mr. President, contrast the approaches which I have just outlined with the straightforward language of the Dirksen amendment and you find confusion weighed against clarity and simplicity. By this I do not mean that all will be serene in any of the States if this amendment is adopted. What I do mean is that the people in each State will be participating in the decision and the battle will be waged on the home grounds and with participants that know the score.

Mr. President, I like the sentiments expressed in debate here last summer by the distinguished senior Senator from Oregon, the Honorable WAYNE MORSE, when he said—and I quote from the CONGRESSIONAL RECORD, volume 110, part 15, page 20007:

> If the people all over the country had the same power that the people of Colorado and the people of Oregon have, and they decided on a constitutional amendment which would have the effect of reversing the Supreme Court decision or in amending their State constitutions, no one would find the Senator from Oregon raising one objection because the people themselves would be making that determination.

I join wholeheartedly with the Senator in his faith in the referendum process. It is a principle embodied in this proposed constitutional amendment.

I disagree with his statement only in part. We are not debating the question of whether a Supreme Court decision should be reversed. That is not our objective. Indeed, if the Congress does not take some action, the States themselves may. It is a matter of record that 27 have demanded a Constitutional Convention; another 3 have called on us to act. The failure of the Congress to be creative may very well provide the spur to that additional number of States necessary to meet the minimum requirements of article V of the Constitution. Need I point out that it only requires 34?

Let us move forward. We have before us a proposed amendment which reasserts a viewpoint which the majority of our people want contained in the Constitution—the right of the voters in the several States to make decisions regarding the apportionment of their State legislatures.

In the name of heaven, let us act.

I yield back the remainder of my time, if any remains.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Nevada [Mr. BIBLE].

Mr. BIBLE. I thank the distinguished minority leader.

Mr. President, I rise in support of the Dirksen amendment. The entire issue of legislative apportionment is a vexing problem of unwieldy proportions: yet the time for decision is at hand and the time for deliberation has nearly terminated.

In view of the amount of thought and discussion that has already been devoted to this question, I will only briefly summarize the question, attempting to view it in its entirety, and state the conclusions which I feel may be fairly drawn from the facts.

In the landmark case of Baker against Carr, decided early in 1962, a divided court, in a plurality of opinions, held that malapportionment of seats in a State legislature, as distinguished from seats in the House of Representatives, is not to be viewed as presenting a political question when the validity of the former is challenged on the basis of the equal protection clause of amendment 14. This decision, which paved the way for all succeeding cases on the issue of apportionment, constituted a major departure on the part of the Court from its previously traditional attitude that such issues amounted to political questions and were therefore nonjusticiable. This is to say that until Baker against Carr, the Court regarded the problem of malapportionment to be strictly of legislative cognizance, and simply not amenable to judicial development.

Perhaps the reason for this departure may be best explained as judicial restraint being supplanted by obvious and overriding needs of the individual. The political situations which gave rise to Baker against Carr, Reynolds against Sims, and various other reapportionment cases offered clear-cut examples of a minority exercising political control through the device of malapportionment. And, it may be true that the Court did substantial good in calling public attention to these injustices. It is also true, it seems to me, that the structure of a State's political system is a subject which concerns the people of that State, and is not a logical or legitimate area for Federal judicial intervention.

There is an unquestioned need for reform. However, there remains the question as to what seat of power shall do the reforming. It is the legislative function to determine the policy, the executive function to implement that policy, and the judicial function to determine the constitutionality of that policy. In this regard, my views correspond with those of Mr. Justice Harlan in his various dissenting opinions when he states that the vitality of our political system, in which in the last analysis all else depends, is weakened by reliance on the judiciary for political reform and that when, in the name of constitutional interpretation, the Court adds something to the Constitution that was deliberately excluded from it, the Court in reality substitutes its view

of what should be so for the amendment process.

Thus, it becomes apparent that the reapportionment decisions represent a two-pronged attack on certain fundamental concepts of American constitutional government as it has been traditionally defined. First, the Court abandons the principle of "checks and balances" by entering an area which, by its own definition, is political and should belong exclusively to the legislative branch.

Second, it abrogates the basic tenets of federalism by patently disregarding a State's sovereign right to determine its own political system. Perhaps, Mr. Justice Stewart correctly states the result of this recent judicial intrusion when he says in the case of Lucas against Colorado:

> It stifles values of local individuality and initiative vital to the character of the Federal union which it was the genius of our Constitution to create.

After taking jurisdiction of State apportionment cases, the Court moved swiftly to the conclusion that the equal protection clause made any legislative scheme unconstitutional which was based on any factor other than population, this being so, even though a majority of people gave their overwhelming support to the contrary—as the Colorado case indicates. The Court rested its decisions on a single inflexible standard—one man, one vote.

I think it is worth while to pause and briefly comment on the Colorado case, since that case represents the extreme application of the one-man, one-vote standard. In 1962, the State of Colorado, reapportioned and generally reconstituted its legislature. Accordingly, one house was based strictly on the theory of equal representation and clearly comported with the concept of one man, one vote. However, what principle of representation was to prevail in the other house was referred to the people, and they adopted a form which considered factors other than population but in no way could frustrate the will of the majority of the electorate. The Supreme Court, nonetheless, struck this down as a device denying equal protection of the laws. This result, though a logical extension of the Court's standard, is a bit incongruous. It is especially incongruous when one learns that the Court placed heavy emphasis on the phrase "We the people," in arriving at the standard of one man, one vote. Is the Court a better interpreter of what the will of the people is than the people who, through the use of their franchise, express that will?

The PRESIDING OFFICER (Mr. BASS in the chair). The time of the Senator from Nevada has expired.

Mr. DIRKSEN. Mr. President, I yield 1 additional minute to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 1 additional minute.

Mr. BIBLE. Mr. President, this amendment is a sound response to the challenge of federalism made by the Supreme Court, as well as an efficacious proposal to combat the apparent inequities being perpetuated in the various States through malapportioned State legislatures. It places the right to determine the composition of State legislatures where it properly should reside—with the people of the given State. It leaves open for consideration the traditional factors which have been recognized as proper considerations when establishing a representative political entity. The provision requiring a periodic review of any apportionment scheme adopted, offers certain assurance that the power to change such a scheme will continually rest with the people of the State at large.

It is strange that this Court, which has placed such high regard on minority rights, has chosen to deny the constitutionality of any legislative arrangement which substantially guarantees minority representation. But use of the phrase "minority representation," I am not endorsing any of the oppressive or unreasonable results which have arisen due to malapportioned State legislatures. I am merely saying that the reverse of the coin is not entirely desirable, either. While a "tyranny of the minority" may result in the denial of "equal protection of the law" under the 14th amendment, there is certainly no assurance that a "tyranny of a majority" will not have the same effect.

In concluding, I think it can be fairly said that the problem of State legislative reapportionment poses very difficult questions, questions of practicality as well as philosophical consistency. One can hardly stand, as an advocate of the status quo which, in this instance, means supporting the inequities of legislative malapportionment as it is manifested among the various States. However, I find myself equally troubled with a constitutional mandate requiring that all States reapportion according to the strict one-man, one-vote doctrine. What is the efficacy or the justice of exchanging one undesirable extreme for another? The amendment before this body represents an opportunity to strike a balance between the extreme positions, a balance that would preserve the integrity of our Federal structure, and at the same time, vest the majority of the people of the several States with the right and continuing opportunity to determine the composition of their democratic institutions.

It is for these reasons that I earnestly urge the adoption of the amendment under consideration which was prepared and proposed by my colleague from Illinois.

Mr. President, I thank the Senator from Illinois for yielding to me.

Mr. DOUGLAS. Mr. President, I yield 6 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 6 minutes.

Mr. MORSE. Mr. President, the question before the Senate is whether to consider a major change in the U.S. Constitution. The proposed change goes to the very foundation of the Federal system.

I know that the proponents of the Dirksen amendment have based their case largely on the idea that the Supreme Court, in applying the equal protection clause to apportionment of State legislatures, performed some kind of drastic surgery on the Federal system.

That idea is quite mistaken, and one of the purposes of the long debate of last year was to make it clear to the country that it was the Supreme Court which was upholding the Federal system and not those who were seeking to reverse its decisions through constitutional amendment.

The facts have been put in the record time and time again which show that the original States of the Union did use apportionment according to population for both houses of their legislatures. One man, one vote was the controlling principle for State representation for generations.

It was not until the end of the last century, when population shifts began on a marked basis, that the one-man, one-vote principle became grossly distorted. New State constitutions began to allow apportionment on a basis other than population, and States where equality of representation was required disregarded the directives to reapportion themselves.

Yet, the health and vitality of federalism was founded on the health and vitality of the States. If there has been an undue trend in the direction of national power and action in fields historically left to State action, it has been the result of the failure of the States to remain up to date in respect to the needs of their own people.

It is one of the ironies of this whole debate that those who have complained the loudest over the last 30 years about excessive Federal power have also stood firmly behind malapportionment of the State legislatures. I say nothing more than the obvious when I say that if the Dirksen amendment is approved, and succeeds in maintaining malapportioned legislatures, then the States will atrophy at a much faster rate in the next 30 years.

Indeed, had conditions continued as they existed before Baker against Carr, I believe that the States would, in 30 years' time, become little more than geographic lines, having little effect on the lives of their citizens, or on conditions within their jurisdiction.

We are seeing population figures projected for the United States that place our population at between 300 and 350 million by the year 2000. These additional tens of millions of people are not going to be farmers; they are not going to be residents of small towns. Most of them are going to contribute to the swelling size of metropolitan areas.

Unless the State legislatures are apportioned to reflect these population changes, the Federal Government is going to move into all areas of metropolitan need. We have already moved into many of them out of necessity.

The Supreme Court, in its reapportionment decisions, has sought to restore the effectiveness of federalism. The Supreme Court gave the Federal system its greatest shot in the arm in 50 years.

I wish to uphold what the Court has begun. I do not wish to see the American States slip backward into the backwaters of American Government.

No matter how it may be amended and doctored, the purpose of the Dirksen amendment is to preserve apportionment based on something other than people. In my opinion, such an objective can only lead to a further weakening of federalism, and I am opposed to it for that reason alone.

I am also opposed to it because it would remove from court review a present constitutional right of every American—the right to test in the Federal courts his equal protection in the State legislature. Embedded in our American system as deeply as federalism is the ultimate procedural right of an American to have his substantive rights tested in court. Of course, by constitutional amendment, either the substantive right or the right of court review may be removed. But that is an inroad into our legal protection of minorities. I am not in favor of making any such inroads.

Proponents of the amendment, and of the Javits substitute, claim that court review will continue where an issue of discrimination on grounds of race or color can be raised. Are we going to say that equal protection will continue to be guaranteed as between races but ignored among people of the same race? That is a limitation on the equal protection clause that is surely unacceptable. I am not in favor of robbing our citizens of court protection of any of their rights, and we do that when we turn over to any majority the final decision on what sound apportionment shall be considered to be.

In short, I see no longrun advantage to be gained from this proposal, either for the majority of citizens of a State or for a minority of its citizens. The Dirksen amendment robs both of some very useful and precious procedures now guaranteed by the Constitution. I believe that it is an assault upon good government and upon personal rights and should be rejected.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum——

Mr. DOUGLAS. Mr. President——

Mr. DIRKSEN. Without charging the time to either side.

Mr. DOUGLAS. Reserving the right to object—I should like to suggest to my colleagues that the time be equally charged to both sides in the interest of expediting the final vote.

Mr. DIRKSEN. Mr. President, the trouble is that I am going to be a little short on time and I have not been heard yet. I am trying to accommodate as many Senators as have made requests, so I trust that my distinguished colleague will not object to my request.

Mr. DOUGLAS. Let me inquire of my colleague whether it is understood that this will not be a live quorum.

Mr. DIRKSEN. It will not be a live quorum.

Mr. DOUGLAS. It will not be a live quorum. So it will be discontinued somewhere along the middle of the alphabet—perhaps 60 percent along the alphabet?

Mr. DIRKSEN. I do not know exactly what 60 percent might be.

Mr. DOUGLAS. I believe it will be somewhere around RUSSELL.

Mr. DIRKSEN. It will not be a live quorum.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Illinois [Mr. DIRKSEN]? The Chair hears none; and, without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. Mr. President, I was very glad to agree that the quorum call be not charged to either side, in order to accommodate my friend, and also to accommodate the senior Senator from Maine, who I understand will speak. However, I must say that hereafter I shall not give consent that that be done. I believe that quorum calls should be charged to the side requesting them.

Mr. DIRKSEN. Mr. President, I yield 10 minutes to the distinguished lady from Maine, Senator SMITH.

Mrs. SMITH. Mr. President, it is difficult for me to understand why the people of each of the 50 States should not be given the right to vote in a referendum as to whether or not they wish to have their State senate modeled after the U.S. Senate.

I can understand the argument and logic that the membership of at least one of the two bodies of a State legislature should be on the basis of direct population and the theory of one man, one vote. I have no quarrel with that at all for that is the very basis of the membership of the U.S. House of Representatives as provided by the Constitution.

But if the constitutional basis for membership of the U.S. House is a valid guide for States in setting the membership of their State house of representatives, then surely the constitutional basis for membership of the U.S. Senate should be permitted at least to be voted on directly by the people of a State as to whether they wish to have that type of basis of membership—that is, other than direct population—for their State senates.

Let me make myself completely understood on this issue. I do not mean that the issue should be settled by the vote of State legislatures. I mean that it should be settled by none other than the people themselves voting on a referendum in State elections.

For if they are not to be permitted to so make their own and free choice and if the one-man, one-vote concept as laid down by the Supreme Court is to be carried to its logical conclusion, then the U.S. Senate should be reorganized and Senators elected on the basis of population rather than on the basis of two for each State.

Is this what the people of each of the 50 States want? I doubt that it is. I am sure that my own State of Maine people would not want it—for the simple reason that if the one-man, one-vote basis of representation in the U.S. Senate were applied, Maine would lose both of its two Senators.

So would Alaska, Delaware, Hawaii, Idaho, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont and Wyoming. Who are some of the Senators that these State currently send to the Senate?

Montana provides the majority leader of the Senate. New Mexico provides the chairman of the Space Committee. Nevada provides the chairman of the District of Columbia Committee. Vermont provides the ranking minority member, and former chairman, of the Agriculture Committee. Rhode Island provides the vice chairman of the Joint Committee on Atomic Energy. Utah provides the ranking minority member of the Banking and Currency Committee. New Hampshire provides the ranking minority member of the Commerce Committee. Delaware provides the ranking minority member of the Finance Committee. South Dakota provides the ranking minority member of the Government Operations Committee. Vermont provides the ranking minority member of the District of Columbia Committee. Maine provides the ranking minority member of the Space Committee.

But these are not the only States that would be adversely affected if the one-man, one-vote concept is applied to membership in the U.S. Senate. The States that would lose one Senator are Arizona, Arkansas, Colorado, Connecticut, Kansas, Mississippi, Nebraska, Oklahoma, Oregon, South Carolina, and West Virginia.

Arizona provides the present President pro tempore of the Senate. Arizona provides the present chairman of the Appropriations Committee. Arkansas provides the chairman of the Government Operations Committee and the chairman of the Foreign Relations Committee. Oklahoma provides the chairman of the Post Office and Civil Service Committee. Kansas provides the ranking minority member of the Post Office and Civil Service Committee. Mississippi provides the chairman of the Judiciary Committee. Nebraska provides the ranking minority member of the Rules and Administrative Committee.

One of the arguments that I have heard repeated most frequently in support of the one-man, one-vote application to deprive the people of the 50 States the freedom of choice to have a State senate modeled after the U.S. Senate is that it would eliminate obstructionism to progressive and liberal legislation.

This argument has intrigued me. It advances the theory that representatives of the most sparsely populated areas are conservative and are obstructionists against liberal legislation. The logic that it propounds is that if the representatives of these less densely populated areas, less urban areas, were eliminated through the exclusive application of the one-man, one-vote concept, the barriers holding back liberal and progressive legislative progress would be smashed down.

I come from a relatively sparsely populated State—one of the largest in area of all the 50 States, but one of the smallest in population. So I was intrigued by this argument that the one-man-one-vote concept would get rid of the reactionaries that were holding back progressive legislation. Under such an argument I would fall under that category. Yet, I have never considered myself to be a reactionary or an obstructionist to liberal and progressive legislation. To the contrary, ultraright wing groups have denounced me as being a leftwinger.

So I made a study of the individual 50 States and their U.S. Senators to see just how true was this intriguing argument against letting the people of each State decide for themselves by direct vote if they wanted to have a State senate modeled after the U.S. Senate—the U.S. Senate in the form provided by the Constitution.

As Senators know, certain organizations issue a report card—or a grade card—on those of us in Congress. They rate us on what they consider key issues on whether we voted "right" or "wrong" according to their own views. The two most diametrically opposed organizations issuing such grade reports are the liberal Americans for Democratic Action and the conservative Americans for Constitutional Action—more popularly known, respectively, as the ADA and the ACA.

I took the report cards of these two opposing organizations on the Senators in the States that would lose Senators, under the one-man, one-vote concept if it were applied to the U.S. Senate, to see if such a concept would get rid of the conservatives—if the conservatives were concentrated in Senators from the smaller population States.

The analysis provided some very interesting facts. It revealed that of the 15 States which would lose both Senators under the application of the one-man, one-vote concept to the U.S. Senate—States which would have no Senators because they were too small in population—that 11 of the 15 States had a combined two-Senator representation that was more liberal than conservative as rated by ADA and ACA. Only 4 of the 15 States that would lose both Senators had a combined two-Senator representation that was more conservative than liberal as rated by the ACA and the ADA.

The division between the States that would lose one Senator was practically even—five liberal to six conservative.

I do not suggest in the slightest that this analysis proves that the more sparsely populated States are more liberal than conservative. But I do say that, as far as the U.S. Senate is concerned, it does disprove the contention of the one-man, one-vote advocates, who oppose letting the people of the States decide for themselves, that representatives of sparsely populated areas are reactionary obstructionists.

Their contention simply does not hold water. The smaller population States are not dominated by conservatism. All we need to do is to look at the report card of another liberal organization, the AFL–CIO's COPE, which has given a perfect 100-percent grade to a Senator from Rhode Island, to a Senator from New Hampshire, to a Senator from Maine, to a Senator from North Dakota. It has given a score of 86 percent to both Senators from Alaska—96 percent to one Senator from Hawaii, 88 percent to one Senator from Idaho, 98 percent to one Senator from Montana and 88 percent to the other Senator from Montana, 83 percent to one Senator from Nevada, 87 percent to one Senator from New Mexico, 98 percent to the other Senator from Rhode Island, 97 percent to one Senator from South Dakota, 93 percent to one Senator from Utah, and 86 percent to one Senator from Wyoming.

The PRESIDING OFFICER. The time of the Senator from Maine has expired.

Mrs. SMITH. Mr. President, will the Senator yield me 1 additional minute?

Mr. DIRKSEN. I yield 1 additional minute to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 1 additional minute.

Mrs. SMITH. Yet, despite these liberal ratings by COPE for these Senators, each of their States would lose both of their two Senators under application of the one-man, one-vote rule to the U.S. Senate. How some advocates of the one-man, one-vote concept can contend in the face of these facts that its application is necessary to State legislatures in order to remove reactionary obstructionism to progressive legislation is beyond my understanding.

No, this argument that sparsely populated areas produce obstructionists opposing liberal and progressive legislation, and therefore should be denied area representation, just does not make sense.

For had it been applied in the past to the U.S. Senate and the small population States denied the two-Senator representation that the Constitution gives them, the Senate would not have had the past liberal leadership of Senators from small population States like George W. Norris, of Nebraska; William E. Borah, of Idaho; Joseph C. O'Mahoney, of Wyoming; James E. Murray, of Montana; William Langer, of North Dakota; Dennis Chavez, of New Mexico; Charles Tobey of New Hampshire; Theodore Green, of Rhode Island, and several others who authored and fought for liberal and progressive legislation.

Such argument is no more logical and tenable than the opposition to giving the people of each State the right to vote in a referendum on whether or not they want to have a State senate modeled after the U.S. Senate, as provided in the Constitution by the founders of our Nation.

Mr. DIRKSEN. Mr. President, I yield 4 minutes to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have taken the floor on other occasions to support the proposed constitutional amendment dealing with reapportionment. I think it is imperative that the people reassert themselves in this fight. The question is fundamental and basic to our form of government. The issue is: Shall the people be trusted to govern themselves, or will Congress permit nine men who are appointed to the Supreme Court of the United States to determine what is the proper way for the people to be represented in their respective State legislatures. The case, in my judgment, has been well presented, and I know that the views I have expressed and the views which I am about to state are shared by the Governor of the great State of Wyoming, both houses of our State legislature, and I am confident by the great majority of the Wyoming people.

It is not my intention to unduly criticize the U.S. Supreme Court. I feel that it has erred and that the Congress and the States must take corrective action at this time.

I want to tell the Wyoming story. Wyoming was admitted to the Union in 1890, 75 years ago. In fact, we just celebrated on July 10 our 75th anniversary of statehood. At the time of admission to the Union, the 14th amendment to the Constitution had already been adopted. The 14th amendment was the supposed constitutional basis that the Supreme Court used in ruling that population be the only factor considered in reapportioning both houses of State legislatures. When Wyoming sought statehood, it submitted its proposed constitution to the Congress of the United States for approval. That constitution was approved by this Congress. In my judgment, Wyoming's constitution was in conformity with our Federal Constitution when it was approved by Congress and it still is today. Wyoming's State Legislature was created in conformity with our State constitution which provides for a republican form of government as required by article 4, section 4, of the U.S. Constitution.

The Wyoming constitution provides:

> Each county shall constitute a senatorial and representative district; the senate and house of representatives shall be composed of members elected by the legal voters of the counties respectively every 2 years. They shall be apportioned among the said counties as nearly as may be according to the number of their inhabitants. Each county shall have at least one senator and one representative but at no time shall the number of members of the house of representatives be less than twice nor greater than three times the number of members of the senate.

This is the formula which was laid out in our State constitution and which has been followed.

In 1964 citizens of the six most populous counties of the State of Wyoming brought an action seeking to enjoin the State officials who were charged with conducting elections, under State laws, from proceeding in the 1964 primary and general elections. The allegation was that the recently adopted reapportionment laws of 1963 relating to the election of representatives to the Wyoming State Legislature were unconstitutional and violated the 14th amendment to the U.S. Constitution. They alleged that the apportionment failed to give representation on an equal basis as required by the Wyoming constitution and the 14th amendment to the Constitution of the United States. This case was heard by a Federal three-judge court and the court ruled that the upper body of the

Wyoming State Legislature did constitute "an invidious discrimination against the voters of the State of Wyoming," thus violating the equal protection clause of the 14th amendment of the Constitution of the United States. The court then ruled that the Wyoming reapportionment act of 1963 was null and void. This court also determined that section 3, article 3, of the Wyoming constitution, which provided that each county shall constitute an election district, is ineffective and not to be considered when determining the reapportionment of the Wyoming State Senate.

In effect the Federal Court was saying that Wyoming's constitution which had been approved by Congress and had been unchallenged for 75 years because, in my opinion, it was proper, was at fatal variance with the recent Supreme Court decision and thus must be considered unconstitutional from its inception. This is a bunch of tommyrot.

There is no validity to such an assumption other than the recent decision of the Supreme Court of the United States which I think must be remedied by the enactment of this proposed constitutional amendment.

When you represent a State such as Wyoming which is rich in natural resources, has open spaces grazed by cattle and sheep, many oil wells and a great deal of mineral activity, it is stupid and silly to say that you must only be concerned with the population of the State. For States such as Wyoming have interests which must be represented and if those interests are not represented, the economy of that State and thus the Nation will be damaged. It is ridiculous for the Court to set new standards declaring it to be unconstitutional for a State to give effective consideration in establishing legislative districts to history, economics, group interests, or geographic factors.

I do not agree with those people on this floor or on the Court who suggest that every major social ill in this country can find its cure in some constitutional principle and that the Supreme Court should take the lead promoting reform when other branches of Government fail to do so. I realize that our Constitution takes on expanded meanings and developments, but I believe the fundamentals of good government as laid down in our Constitution never change. It is for this reason that I believe the Supreme Court of the United States, in writing these new directives, exercised an amending power that was never intended. Since this has been done, it is now necessary for us to adopt a proposed constitutional amendment so our Federal Republic will be ruled by the people and not by the Court. The arguments that we have heard the last several days here on the Senate floor indicate to me that there are Senators here who do not trust the American people to determine for themselves what type of representation will be best for themselves and their State.

I trust people and I believe that people have the ability to determine things for themselves. I think the Dirksen amendment which would give an alternative to the American people is sensible, reasonable, and should be enacted. I do not understand the argument of those liberals here on the floor who contend that the American people should not be given a chance or a choice but rather the Supreme Court should be the one to dictate the terms under which all election districts should be established. I know that my Wyoming friends and constituents are better prepared to determine what is best for the interests of Wyoming than are five men who sit here in Washington, D.C., unconcerned about Wyoming as an entity. Mr. President, the Wyoming story is clear and the Wyoming people know it. Thus, we urge the Senate to approve the proposed constitutional amendment.

Mr. DIRKSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, as a cosponsor with the distinguished minority leader of Senate Joint Resolution 2, I want to speak briefly in support of the urgent need to secure the adoption of an appropriate constitutional amendment to guarantee to the respective States their legal and historical right to determine the apportionment of their own legislatures. I do not intend to speak at length on the subject at this time, but I do want to present to the Senate what I believe to be the basic issues.

During the past 30 years the U.S. Supreme Court has rendered numerous decisions which have announced abrupt departures from the interpretations of the Constitution theretofore rendered by the Court. The latest and one of the most far reaching of these departures from a well defined and established principle occurred in a series of opinions rendered by the Supreme Court on June 15, 1964, dealing with the apportionment of State legislatures. Prior to the decision in *Baker et al.* v. *Carr et al.*, 369 U.S. 186 (1962), the Court had uniformly refused to entertain such apportionment cases on the ground that these cases involved political questions not presenting a justiciable issue to the Court. In Baker, however, the Court summarily reversed its prior decisions and held that it had jurisdiction over the subject matter and that the cause of action was justiciable.

In Reynolds against Sims and companion cases rendered last year, the Court went much further, Mr. President, than it did in the Baker case. In those cases, the Court announced that both houses in a bicameral legislature must be strictly apportioned on the basis of population and that such apportionment must reflect as nearly as practicable the one-man, one-vote concept. Up to that time, it had never been considered that the equal protection clause of the 14th amendment, or any other provision of the Constitution, requires that both houses of a State legislature be composed of members apportioned on a strict population basis. To the contrary, our system of Government presupposes representation of all elements of society.

It seems clear, Mr. President, that the Court moved beyond the bounds of judicial responsibility in rendering these decisions on June 15, 1964. Mr. Justice Clark in his dissenting opinion in one of those cases, Lucas against Colorado, expressed this opinion very clearly when he stated:

> In striking down Colorado's plan of apportionment, the Court, I believe, is exceeding its power under the equal protection clause; it is invading the valid functioning of the procedures of the States, and thereby commits a grievous error which will do irreparable damage to our Federal-State relationship.

There is no time to develop that point here. I am sure it has been developed already. Merely a reading of the facts in the Colorado case, in which actions by the people were thwarted, set aside, and nullified, indicates, with all deference, how shocking it is that we have reached the stage where the actions of the people on this subject are not allowed to control.

Until the Court acted, it had been rightfully assumed for 175 years that a State had the right to apportion one house on a basis other than population. Indeed, it had not been seriously questioned.

These cases, dating back to Baker against Carr, present two fundamental questions: First, does the Constitution of the United States grant to the Federal courts the jurisdiction over the subject matter of legislative apportionment; and second, does the Constitution of the United States require that not only one, but both houses of a State legislature be strictly apportioned on a basis of population?

That has already been required by the Court. The real issue here is, Shall we overturn it? The logic against the Court's ever having ruled that way is the real reason for the passage of the proposed amendment.

In an unanswerable dissent in Baker against Carr, Mr. Justice Frankfurter destroyed the majority argument and holding that questions of legislative apportionment constituted justiciable issues to the Court under which the Court may exercise jurisdiction. Despite the logical and historical validity of Mr. Justice Frankfurter's opinion, however, the Supreme Court has nevertheless continued to entertain these cases since Baker. In so doing, the Court summarily reverses and ignores a uniform course of decisions prior to 1962 holding to the contrary.

An examination of the legislative history and original meaning of the 14th amendment clearly discloses that the equal protection clause does not grant unto the Federal courts the authority which has now been assumed.

Mr. Justice Harlan, in his dissenting opinion in Reynolds against Sims, fully develops the debate in the Congress of the United States on the question of the adoption of the 14th amendment. The very wording of that amendment demonstrates that its authors and those Members of Congress who voted for its adoption did not intend to take from the respective States the right which they had previously exercised to determine composition of their legislatures. I will not discuss this legislative history

in detail, but I would refer each Member of the Senate to Mr. Justice Harlan's dissenting opinion.

The inescapable conclusion of this legislative history and experience, as well as the judicial precedents prior to the rendering of these decisions on June 15, is that the Federal judiciary does not have jurisdiction to entertain apportionment cases and that the Constitution does not prohibit the States from determining the apportionment and composition of both houses of their respective legislatures.

In addition to the legal attacks on the constitutional validity of these decisions, Mr. President, I submit that there are compelling reasons to correct the decisions of the Court. This is a Nation composed of many elements and population groups, each having an economic, political, and social interest peculiar to their own circumstances. In a republican government each of these group interests is entitled to recognition in its legislative representation. Citizens in rural areas, for example, have interests different from those of urban and semiurban population groups. Agricultural interests differ from those of industrial organizations, and similar distinctions can be made for many other interested groups throughout our Nation. The factors which should be considered in providing representation for these various interests are susceptible of recognition and definition only by the State and local governments. No judicial body, State or Federal, is qualified to pass on these questions and render fair and workable solutions. Our entire legal and historical background substantiates this fact.

I stated last year during the consideration of this question, and I say so again now, that there is no more vital issue pending in Congress than the subject matter of Senate Joint Resolution 2. The principles involved go right to the very heart of our Federal system and the principles of representative government. While recognizing that certain inequities have existed in the apportionment of some State legislatures, I believe that these are far outweighed by the dangers inherent in Baker against Carr and Reynolds against Sims. In my opinion, Congress must act and act now to reverse these decisions and restore control of legislative apportionment to the respective States, where it rightfully belongs.

I thank the Senator from Illinois [Mr. DIRKSEN] for yielding to me.

Mr. DOUGLAS. Mr. President, I yield 5 minutes to the distinguished junior Senator from Ohio.

Mr. YOUNG of Ohio. Mr. President, the proposed amendment to the Constitution introduced by the distinguished minority leader [Mr. DIRKSEN] which would permit States to apportion one house of their legislatures on factors other than population is one of the most important and far-reaching legislative proposals ever to come before the Senate. How we act upon it will shape the governments of all our States, the Federal Government and the lives of all Americans for generations to come.

The question of reapportionment of State legislatures is, in effect, a civil rights bill of the highest magnitude for it affects the voting rights of over half the citizens of the Nation. Stripped of all its verbiage, the amendment comes down to the essential question of whether we are willing to recognize the concept of one man, one vote in our democracy.

Mr. President, my position on reapportionment is very clear. I support 100 percent the decision of the Supreme Court. The heart of that decision is that next to the right to vote is the right of a citizen to have his vote equal the vote of every other citizen. In the words of the Court, one man, one vote.

The Supreme Court ruling was, quite simply, a ruling in favor of fair representation for all citizens. The Dirksen amendment is a blatant attempt to stop the clock of progress and to perpetuate a system whereby millions of our citizens do not receive fair representation. Its aim is to protect the vested political interests and preserve minority control rather than correct the gross imbalance of power that now exists in most of our State legislatures. In effect, it will allow evil to perpetuate itself. It will permit present State legislatures, many of them apportioned with gross unfairness, to prevent reapportionment for decades to come.

Not only will this affect the composition of our State legislatures, but also of our Federal Government. Under the status quo, rural-dominated legislatures have to a great extent so gerrymandered congressional districts in their States that citizens living in cities and their suburbs do not have fair representation in the House of Representatives of the U.S. Congress.

There are numerous examples of some State legislatures sitting for 50 years or more without so much as acknowledging the requirement of their own State constitutions regarding apportionment. With the enormous development of industry in the last 70 years and the correlative growth of urban areas more and more States amended their constitutions in order to freeze rural predominance in at least one house of their legislatures.

My own State of Ohio is a classic example. Both chambers were generally apportioned according to population during most of the 19th century. In 1903, however, the so-called Hanna amendment was adopted in Ohio which guaranteed to each county at least one member in the lower house. It was adopted under the leadership of Marcus Alonzo Hanna, who was then the boss of the Republican Party in Ohio and was ambitious to become a Senator of the United States at a time when the legislatures of the various States elected U.S. Senators. Following the adoption of the Hanna amendment, Hanna was in fact chosen by the Legislature of Ohio and represented my State as a Senator of the United States.

In Ohio the Dirksen amendment would permit the legislature again to be apportioned with 1 member in the house of representatives for each of the 88 counties, regardless of population. Vinton County, for example, would have 1 legislator; and Lake County, with a population 18 times as large, would also have only 1.

The 68 less densely populated counties of Ohio, with a population of 2,800,000 today have 68 representatives in the house, while the remaining 20 more heavily populated counties having a population of 7 million have only 66 representatives in the lower body. The result is that 28.4 percent of the State's population has more than 50 percent representation in the house.

Regarding the State senate, I am glad to note that the situation in Ohio is not so bad. There, it would require only a minority of 44.8 percent to elect a majority.

Mr. President, the people of Ohio on last May 5 rejected a reapportionment proposal which would have, in effect, nullified the Supreme Court decision in our State. I know that the great majority of Ohioans support me in rejecting this attack on our great American tradition of freedom and equality for all.

Mr. President, the Supreme Court decision was long overdue. It has provided a tremendous stimulus for the States to take the long needed remedial action necessary to make their legislatures capable of coping with the voluminous and diverse problems facing State governments in this space age of change and challenge. My only regret is that it was necessary for the Federal courts to step in at all. This would not have been necessary had the States taken action themselves.

The facts are that at the time the one-man, one-vote decision was handed down, less than 45 percent of the population was able to elect majorities in both houses of the legislatures of some 33 States. Today, there are still 2 States in which less than 20 percent of the people can elect a majority to the lower houses and 17 States in which from 20 to 40 percent can elect a majority. With respect to the upper houses, there are 10 States in which less than 20 percent can elect a majority and 13 States in which from 20 to 40 percent can elect a majority. These figures are based on the 1960 census, so the disparities are probably greater now.

Today 7 out of 10 Americans live in the cities and suburbs. In 10 years that figure will be 8 of every 10. In 25 States more than half the population resides in the cities. Many of these States are saddled with malapportioned and unrepresentative legislatures which are not responsive to the needs of their great urban and suburban majorities. The urgent needs of the cities are ignored by the dominant majorities, the politicians elected from sparsely populated areas. In some cases there might be some truth to the saying that some State legislatures have become old folks homes for retired township trustees.

Many of our States violated their own constitutions by failing to periodically reevaluate their apportionment. One State made no attempt to reapportion at all at any time in this century until the Supreme Court decision. Another had not reapportioned since 1901.

There is another aspect which must be brought forcefully to the attention of

the Nation, for it has a bearing on other recent legislation designed to assure full and equal rights to all citizens regardless of their race.

We have come a long way in the last decade in reaffirming constitutional guarantees to all Americans. All of our civil rights laws and the voting rights bill recently passed by the Congress along with the 14th and 15th amendments to the Constitution have been written to protect Negroes and all others in their civil rights and civil liberties.

The proposed amendment would only dilute the rights that we have labored so long and hard to assure. It is clear that in some States the choice as to what method of apportionment should be used would fall upon legislators who have been elected by an electorate from which large segments of the citizenry were barred from their rightful privilege at the ballot box. I have supported all civil rights legislation to come before the Senate. If I were to approve of this amendment I would, in effect, be negating every vote I cast for civil rights.

Mr. President, I reject the arguments against the Supreme Court's dictum. I have yet to hear a single argument against equal representation based on fundamental principles. To the contrary, I feel that there is ample foundation for the one-man, one-vote rule.

The Founding Fathers, in the ordinance of 1787 which was intended to be a guide for future government, included the provision:

> The inhabitants shall always be entitled to a proportionate representation of the people in the legislature.

James Madison in one of his Federalist papers wrote that "Numbers are the only proper scale of representation," and Jefferson wrote that "Equal representation is so fundamental a principle in a true republic that no prejudice can justify its violation." Between 1790 and 1889 every State admitted to the Union entered with a constitutional provision for representation based on population. In all, 36 States had this provision in their original constitutions.

It is clear that the emphasis on population as the basis for representation is rooted deeply in our American philosophy of representative government. In many States, though, including Ohio, the original constitutional provisions were altered in order to preserve the legislative control by areas of declining population regardless of subsequent shifts of population.

I firmly believe that votes should be cast by persons on an equal basis. I was born and reared in a rural community—Puckerbrush Township in Huron County, Ohio. Huron County is strictly a rural county with a population of approximately 47,000.

I know from living in a rural area of Ohio, and from having lived in urban areas of my State, that citizens of our cities will not act unjustly, capriciously or vengefully in legislative matters.

Equal representation for all citizens without discrimination cannot be dangerous, despite the view of those who are opposed to this. On what basis, for example, are citizens of Franklin County or Cuyahoga County, or Hamilton County, the three largest counties in Ohio, to be considered intellectually or morally inferior to citizens of Union or Vinton Counties, two of our smaller counties?

Mr. President, adherence to the decisions of the Supreme Court must not be based on the whims and fancies of a few politicians who fear for their political lives. The courage and wisdom of the Supreme Court has changed the system under which millions of Americans have been deprived of equal representation for so long a time. The Dirksen amendment is an attempt to circumvent the Supreme Court. It is designed to protect vested political interests rather than correct the imbalance of power in legislative chambers.

It is true that the proposal provides for the submission of reapportionment plans to a vote of the people and approval for a majority of those voting. Presumably, the reapportionment referred to is one in which a second house is apportioned on factors other than population.

Should this amendment be approved by both houses of the Congress and ratified by the States, it would allow the legislatures of those States which have not been reapportioned, and which are malapportioned, immediately to present a plan to the voters for apportionment of one house on bases other than population. The referendums themselves would be prepared by malapportioned legislatures.

Mr. President, every amendment to our Constitution has extended in one way or another civil rights and civil liberties of all Americans. If the Dirksen amendment should be passed through both branches of Congress, there is real fear that three-fourths of the legislatures would ratify it providing what would be the first amendment to the Constitution to reduce and minimize the peoples' liberties rather than guarantee and expand them.

The proposal is full of ambiguities and uncertainties. It is dubious of principle and dubious in practice. Its provisions are biased in favor of those who will benefit most from its ratification and who will be the ones to judge it. It is supported, not by facts and experience, but by rationalizations and by uncertainties, even fear. A constitutional amendment that constitutes a backward step in our Nation's history is too important to be based upon such shifting sands.

I urge deliberate consideration of all its aspects and I believe that when we have finished our examination it will be resoundingly defeated, a consequence which it well merits.

The PRESIDING OFFICER. Who yields time?

Mr. DOUGLAS. Mr. President, I should like to yield time to the distinguished Senator from Massachusetts [Mr. KENNEDY]. He is not on the floor at the moment but we expect him very shortly.

Mr. President, I was greatly interested in the address by our very good friend and beloved colleague, the senior Senator from Maine [Mrs. SMITH], who seemed to imply, even though she did not directly state, that there was involved in this question the abolition of equal representation of the States in the United States Senate.

A spurious map has been circulated from an unknown origin and is on the desks of Senators, indicating what the representation of the States would be if they were represented in this body according to population.

All Senators understand, even though not all citizens understand, that the feature of the Constitution which calls for each State to be represented in the Senate by two Senators is the one feature of the Constitution which cannot be amended.

We have only to turn to article V of the Constitution, which deals with the process of America, to see that this is so. Article V states in part: "Provided, that, no State, without its consent, shall be deprived of its equal suffrage in the Senate."

This is the one feature of the Constitution which cannot be amended. Therefore, the implication that equal representation in the Senate would be eliminated if we were to defeat the Dirksen amendment is a complete non sequitur. Like the flowers that bloom in the spring, it has nothing to do with the case.

Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. CLARK. Mr. President, I am grateful to my friend the Senator from Illinois for yielding me this time. I note that there are a good many more of my friends in the press gallery than are usually there when I address the Senate.

As I said on the floor of the Senate a couple of days ago, I believe that a very important procedural question is raised by the pending amendment.

I believe that we should face up to that procedural question before we determine whether we want to take the first step toward adoption of a new amendment to the Constitution of the United States. This is the procedural question: Does not the action of attempting to engraft on an innocent little joint resolution dealing with American Legion baseball, an important, and, indeed, critical amendment to the Constitution of the United States, tend to bring the Senate of the United States into disrepute throughout the country, if not indeed throughout the world? I believe that it does.

I should hope that a number of my colleagues would agree, and that, purely on the procedural question, we shall get a good strong vote against the pending amendment.

I believe that I am correct in saying that there is no other legislative body in the free civilized world which would permit nongermane amendments to be offered on the floor of a legislative body. It could never be done in the House of Representatives. I know of no State legislature whose procedural rules are so loose that it could be done there. However, we have fallen into a bad habit on

both sides of the aisle, among all degrees of political philosophy in this body, in utilizing this utterly illogical and ridiculous procedure. We did it in the case of the Stella School District when we passed an earlier civil rights bill.

In that case, we engrafted a civil rights bill on a small bill to provide approximately $1,500 which was justly owing to a certain school district. As a result, the unfortunate school district did not receive that money for several years.

We are doing the same thing again today. We did it last year to the foreign aid bill.

This makes no sense whatever. As I have said, it tends to bring the Senate into disrepute.

I have sent to the desk a proposed amendment to the Rules of the Senate which amendment will lie there for cosponsorship for 10 days.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. Mr. President, I yield 1 additional minute to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 1 additional minute.

Mr. CLARK. Mr. President, my proposed rule would eliminate the right to propose nongermane amendments to a bill on the floor of the Senate.

This Stella School District maneuver was taken in an effort to bypass the Committee on the Judiciary, because the Judiciary Committee was then controlled by the opponents of civil rights. The present maneuver is being taken because now the committee is controlled by the opponents of the Dirksen amendment.

I hope that on the pending amendment, which has nothing to do with the merits of the proposal sought to be amended, we shall summon a vast array of Senators and rebuke this effort to demean the procedures of this legislative body by the introduction, motioning up, and adoption of a nongermane amendment.

Mr. DOUGLAS. Mr. President, I yield 10 minutes to the distinguished junior Senator from Massachusetts [Mr. KENNEDY].

The PRESIDING OFFICER (Mr. MONTOYA in the chair). The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY of Massachusetts. Mr. President, many of my colleagues have spoken at length and with much eloquence about the unwisdom of any constitutional amendment undercutting the established constitutional principle of equal representation. I share this view.

The right of every citizen to have his vote count and count with equal weight to the vote of all other citizens is, as the Supreme Court has said, a right basic to our constitutional principles of equal protection and representative democracy. For that reason alone, I would be opposed to the amendment offered by Senator DIRKSEN.

I rise, today, however, to underline a particular defect of the Dirksen proposal—a defect which should be cause for concern to all of us here who are involved in the continuing fight to obtain full and complete citizenship for our Negro citizens.

It is cause for concern because, if adopted, the Dirksen amendment would, in my judgment, permit the enactment of State legislative apportionment plans which seriously diluted the vote of our Negro citizen both in our northern cities and in many of our Southern States.

In some areas of our country, the motivation for racial malapportionment still exists. It existed in the past when malapportionment was permitted. The Civil Rights Commission 1961 voting study found a close correlation between malapportionment and racial discrimination.

There is no reason to suppose that this motivation does not still persist in certain areas.

An the opportunity is there. Until the Voting Rights Act of 1965 has worked its beneficial effects, the electorate passing on apportionment plans, as provided for in the Dirksen amendment, would in some States, because of past racial discrimination, be an unrepresentative electorate with the power and the opportunity to make race a factor in such plans

The motivation is there, the opportunity is there, and the Dirksen amendment does not provide adequate means for preventing racial malapportionment.

As the testimony before the subcommittee made plain, discriminatory plans to nullify or dilute the Negro vote can be achieved by apportionment based upon factors of geography or political subdivision—factors which the Dirksen amendment makes explicitly permissible.

As Burke Marshall pointed out in his testimony before the subcommittee, apportionment on the basis of geography or political subdivision, because of the increasing movement of Negroes into urban areas can be an effective means of effectuating racial discrimination and depriving Negroes of a fair political voice.

Similarly in the South, because of the high concentration of Negroes in certain counties, it would be a simple matter to achieve racially discriminatory results by the application of these factors.

Studies by Prof. V. O. Key, an authority on southern politics, and by the Civil Rights Commission indicate that overrepresentation of rural counties in certain Southern States, have in the past given white citizens in certain States a disproportionate strength in the State legislatures.

Even if we give the most liberal reading possible to the Dirksen amendment, it cannot cope with this problem of racial malapportionment. It is simply not enough to say, as the present version does, that "such plan of apportionment—must have—been submitted to a vote of the people in accordance with law and with the provisions of the Constitution."

It is not enough because the practical effect of this proposed constitutional amendment is to alter and dilute two existing consitutional provisions: the 14th amendment right to equal protection of the laws, and the 15th amendment guarantee of complete suffrage.

The damage to the 14th amendment by overruling Reynolds against Sims would be intentional, the damage to the 15th amendment would be unavoidable, because as soon as you permit people's votes to be weighted differently on the basis of residence, you can dilute the votes of those groups in the society whose residences tend to cluster geographically.

At the hearings on the amendment, time and time again witnesses testified to this effect—that the greatest danger posed by the adoption of this amendment would be that apportionment plans in some States would be used as devices to abridge and deny the right to vote of our Negro citizens.

I have excerpted some of these remarks and I ask unanimous consent to have them inserted at this time in the RECORD.

There being no objection, the extracts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM TESTIMONY ON METHODS OF APPORTIONMENT

Burke Marshall's concern has been indicated earlier in my remarks. He summarized his position in the statement that amending the Constitution "is specifically dangerous to the minority groups, particularly Negroes, who most drastically feel the impact of urban problems which I have mentioned. In fact, the proposed amendments seem to me to endanger very seriously our entire effort to give these groups an effective political voice in asking their States for help."

Clarence Mitchell, director of the NAACP, Washington bureau, expressed his concern that enactment of the amendment would undo the progress that has been made recently in Congress in the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Further, as Mr. Mitchell put it, "If there is one thing that would constitute a major and almost insurmountable roadblock on the highway of democracy, it would be this amendment, or any similar thing which would be designed to frustrate the principle that our representative system ought to be based on a one-man, one-vote philosophy."

Bernard Kleinman, a Chicago attorney, testified to apportionment abuses in Illinois. He pointed out that well over 90 percent of the Negroes in Illinois reside in senatorial districts which are grossly overpopulated, and that representation of the Illinois Senate has been diluted to the extent of perhaps one-twentieth of his rightful share. He expressed the irony of the current amendment in clear terms:

"There is simply no way that the proposals before this subcommittee can be reconciled with the civil rights legislation that the vast majority of the Members of this Congress and of the citizens of the Nation support."

The New York City Bar Association offered its analysis that "The amendment might * * * invite attempts at districting based on racial criteria or arbitrary criteria having racial or other discriminatory overtones. It is patently undesirable to have an amendment which might, for example, be relied on to undermine the safeguards of the 15th amendment * * *."

The Committee on Federal Legislation in its report to the committee expressed their belief that the proposed amendment could easily lead to racial discrimination.

Mr. Justice Feldman, a member of the New York Bar, and chairman of a special committee on reapportionment of the Democratic State Committee of New York, warned against reversing the trends being set by civil rights legislation by enacting such an amendment which would be an open invitation to

apportion or district on the basis of arbitrary or discriminatory criteria.

"We are involved in this country at this time in a great struggle to make certain that every citizen, regardless of race or color, has the right to vote * * * surely no one would contend that it is enough merely to guarantee that every person has the right to exercise his franchise, if there were no requirement that his vote then be counted."

The position of the ACLU on the reapportionment issue was presented by Prof. Robert McKay, associate dean, School of Law, New York University. He stated that the ACLU because of its interest in first amendment freedoms and minority groups' rights was concerned by the lack of adequate safeguards against discrimination:

"Just one other thing I want to say * * * that is the question as to whether it would be possible under these proposals granted judicial review to discriminate against racial, religious or ethnic groups, and my answer then was I would think the Supreme Court would knock that down if it were overt, but as soon as you take population out, there are ways of indirectly achieving the same result. Any kind of emphasis upon disenfranchisement of the urban areas, for instance, and this comes very close to the area of interest of the ACLU, tends to work to the disadvantage of minority groups because the minority groups do, whether wisely for their own interest or not, tend to cluster in the cities."

Mr. KENNEDY of Massachusetts. Mr. President, the 15th amendment to our Constitution guarantees that all citizens shall have the right to vote regardless of race or color.

We, here in the Senate, in this very session, have sought through the Voting Rights Act of 1965 to make this fundamental guarantee a living reality for our Negro citizens.

Would it not be a mockery if the same Congress which adopted the Voting Rights Act of 1965 approved and presented to the States a constitutional amendment which could undermine the 15th amendment guarantees upon which this Voting Act was premised?

We must not write into the Constitution a device for disenfranchisement of our Negro citizens. Yet, I believe any law which would permit the votes of some of our citizens to count for more than the votes of others is potentially just such a device.

The decision in Reynolds against Sims is only 1 year old. No one can yet say that this decision will do harm to any State's system of government. Certainly, there is no evidence as yet that any harm has been done.

Quite the contrary, there is ample evidence that once our States are apportioned on the basis of one man, one vote, our State governments will be able to play a more responsible role in our governmental structure, for the benefit of all our citizens.

Mr. President, it is for these reasons that I believe there should be no retreat from the historic one-man, one-vote rule, the only rule which is in keeping with our highest ideals of representative democracy, the only rule which can make possible a rebirth of federalism, and the only rule which will maintain inviolate for all our citizens the guarantees of the 15th amendment.

Mr. President, the State of Massachusetts has had an admirable record on the question of State legislative apportionment. In recognizing the problem and achieving a solution, Massachusetts struggled with some of the same issues with which we are confronted today.

As early as 1635, Massachusetts was the first Colony to establish population as a basis of representation in its colonial legislature. At that time, the fundamental plan in all the colonies was that each town should be represented. Massachusetts refined this notion by establishing a system whereby larger towns had more representatives, and this principle was retained when the colonies achieved independence as the United States.

But the fight for a better system of truly equal representation continued. In 1775, the Massachusetts Legislature declared that every town had a right to be represented, thus causing a steady growth in the number of legislators. Dissatisfaction with this scheme led to much agitation for reform, culminating in a 1776 statute giving 3 members of the legislature to each town with 220 freeholders, with 1 more for each additional hundred.

Even this compromise system—based on both population and town representation—was criticized by many. And in 1776, the county of Essex adopted a resolution pointing out that:

The rights of representation should be so equally and impartially distributed that the representatives should have the same views and interests with the people at large. * * * Let these representatives be apportioned among the respective counties, in proportion to their number of freemen.

This compromise system prevailed into the next century, assuring at least one representative to every existing town, no matter how small. Then in 1836, the Constitution was changed to provide, in effect, that the small towns were to be unrepresented in the legislature in some years.

The struggle for complete equality of representation continued. Charles Francis Adams made an eloquent argument—appropriate then and appropriate today—for such equality. He said:

I maintain that the moment a majority in a republic assumes to draw a distinction with the intent that certain men shall be enabled to enjoy twice or thrice the amount of political power which an equal number of other men are to possess, that is the house when tyranny begins.

Finally, in 1857, this popular sentiment prevailed and a district system, based as nearly as practicable on numerical equality, was put into effect. Numerical equality is defined in terms of "legal voters." The system has continued, and equal representation has prevailed, from 1857 down to the present.

Results have been excellent. As of July 1, 1961, before many States reapportioned their legislatures in response to Baker against Carr, there were only eight States where the minimum percentage of population needed to elect a majority in both houses was 45 percent or over. Massachusetts is one of these eight States.

As the figures indicate, Massachusetts long has stood for the principle of equal representation in the State legislature. I am proud of the record my State has in this area.

Moreover, there can be no doubt where Massachusetts stands now on the question of a constitutional amendment. A resolution requesting the U.S. Congress to call a constitutional convention to pass a constitutional amendment permitting apportionment of State legislatures on factors other than population was rejected by the Massachusetts General Court on April 22, 1965. I also understand that a memorial will be proposed for enactment by the general court urging the U.S. Congress to reject the Dirksen amendment and all similar proposals.

Mr. DOUGLAS. Mr. President, I yield 10 minutes to the Senator from Indiana [Mr. BAYH].

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. BAYH. Mr. President, I thank my colleague, the senior Senator from Illinois, for yielding me some of his allotted time on this matter. I have no prepared text. I speak for the allotted time in an effort to try briefly to summarize for the RECORD my thoughts on this issue.

Inasmuch as fate has placed me as chairman of the Subcommittee on Constitutional Amendments, in a position where I could hear every word of the entire debate, in the presentation before the committee, I have had an unusual opportunity to study the subject in some depth—I believe it is incumbent on me to express myself one last time on this subject.

At the outset of the hearing it became rather apparent that we were confronted with two seemingly diametrically opposed points of view. One was that it should be strictly a one-man, one-vote legislative apportionment. The other was that this was completely wrong. I read some editorials in certain publications which stated that, although there was nothing wrong about majority rule, one house of the legislature should be confined strictly to minority representation.

I do not know whether it is because of my firsthand experience in the Indiana General Assembly or whether it came from hearing all the testimony, but I have come to the conclusion that an attempt should be made to breach this seemingly unbreachable obstacle.

From the very outset it appeared that the matter of legislative apportionment was really a State problem; that if the State legislative bodies were to fulfill their constitutional responsibilities they would, on their own initiative, apportion their legislatures. There are several instances in which the legislative body as composed continued for an extended period of time without change. The case in which the Supreme Court ruled involved a State which had not had reapportionment for 70 years. There have been many instances in which the legislative bodies refused to reapportion, not in violation of the Supreme Court's edict, because it had not yet been laid down,

but, rather, in violation of the State's own constitution.

Indiana was one of the better apportioned legislative bodies, yet it went for 40 years without apportionment in violation of its own State constitution. Some of the results were difficult to rationalize, especially when a particular State has 8 percent of its citizens controlling one house of the legislative body. There are similar States in which a small minority has a stranglehold on a legislature.

A study of this problem discloses that the only practical alternative—in fact, the only possible alternative, because the legislatures themselves have refused to apportion—was for the Supreme Court to protect the rights of the individual in the given States—and that is what it did.

After the hearings, I thought I had glimpsed a way to bridge the gap which existed between these two diametrically opposed philosophies. I hoped that we would be able to amend the Constitution, frankly, to give the States enough leeway to determine for themselves, in light of certain circumstances which existed in individual States, the way in which they wished to apportion.

An important aspect of apportionment is the kind of representation each citizen receives. In the subcommittee hearings, it was made abundantly clear—at least, to me—that a citizen living in the downtown metropolitan area of Denver, for example, would have better access to his legislator, and his legislator would have better access to him, than would be the case with a similar group or a similar number of citizens in the State of Colorado spread out all over the Rocky Mountains.

I firmly believe that we need to give a certain amount of leeway to citizens who live in terrain which is difficult to reach, and in some cases almost impossible to reach, as in Colorado.

It is my understanding that in certain parts of Colorado, particularly in its western sector, many of its citizens cannot be reached by television stations in their own State, and they have to tune in television stations operating in the State of Utah.

Therefore, I believe that we should consider giving those citizens some leeway.

At the same time, I was determined that we should have certain basic safeguards, and I therefore suggested that these factors should not be left open, but should be enumerated.

I suggested that geographic and political subdivision factors as well as population should be considered, and that there should be periodic review by the people and that the Court must have the power to review overall legislative apportionment schemes.

The distinguished junior Senator from Illinois [Mr. DIRKSEN] has gone out of his way to accept these three particular proposals made by me and other Senators, and I believe that the measure now before us is much improved and is a much safer measure.

Still, in one sense, it lacks what I believe to be the most important requirement of all; namely, that although each State should be permitted adequate leeway, they should all start from the same point. Some States have apportioned. They have gone through the rigors of adhering to the edict of the Supreme Court. There are other States which are doing everything humanly possible to keep from having to reapportion.

If we are to talk about equality of representation, let us treat each State equally. Let us insert in the so-called Dirksen amendment, which we are now considering, the requirement that each State, before it can deviate from the one-man, one-vote rule, must first reapportion itself.

I have discussed this question at some length with my friend the Senator from Illinois, and I am persuaded that he and the great bulk of his followers are convinced that they should not support it.

I have also talked with Senators who feel that there should be no amendment whatsoever.

Therefore, at long last, with some reluctance, I have decided not to take the time of the Senate which would be necessary to have a prolonged debate and a yea and nay vote on the amendment; but I am still convinced that if we permitted this as a starting point, and then gave each State some leeway to consider these other factors to apply its apportionment scheme to the State in question as it thought best, we would then come closer to any plan I have seen to accommodate the opposing philosophies.

Mr. President, I should like to make one final argument, and ask the Senator from Illinois one last time——

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. DOUGLAS. Mr. President, I yield 2 additional minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 2 additional minutes.

Mr. BAYH. Mr. President, let us remember that if we are successful in ratifying the measure which is known as Senate Joint Resolution 1, and it becomes the 25th amendment to the Constitution, Senator DIRKSEN'S proposal would be the 26th time in the history of the country that this great document had been changed.

I do not need to tell any Senator of the severity and seriousness of such a move; yet, I am extremely alarmed over the fact that we should seek to impose a constitutional amendment of the complexity of the one proposed by the Senator from Illinois, without the benefit of close committee scrutiny.

Quite frankly, this question was discussed two or three times in the subcommittee, but it was never discussed in detail, or in depth, by the parent Judiciary Committee.

I make this plea, because of the recent experience that we had in advancing the last constitutional amendment, Senate Joint Resolution 1, through the Senate. We are not talking about a law that can be changed overnight. We are talking about amending the Constitution.

I remember when the Judiciary Committee had hammered out what it thought was the best possible solution. The Senator from Connecticut, the Senator from Arkansas and the Senator from Illinois were present.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. DOUGLAS. Mr. President, I yield 2 more minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 2 additional minutes.

Mr. BAYH. Mr. President, the Senators, and other members of that committee, made significant contributions that made it a better constitutional amendment than it was when it was first introduced and reported by the subcommittee.

Mr. President, on the floor of the Senate we argued for 2 hours over whether "either/or" would change the structure of the constitutional amendment. Frankly, I believe that we gained much from that additional debate. I see the smiling countenance of the Senator from Maryland—who was my great right arm in the Judiciary Committee as we fought to eliminate the small imperfections from the proposed constitutional amendment. I know he realizes the value of those discussions.

I have listened with great interest to the debate—and I have heard some extremely flowery and factual oratory—much better than the oratory that I am now displaying—but as yet there is no line-by-line, period-by-period, sentence-by-sentence, discussion of this matter that can take place only in a committee.

There have been great statements of policy, as to the course to be followed, but we have not yet had a specific point-by-point discussion of this problem, as is the product of committee work.

I hope, after the fire has died out and the smoke has blown away, that the Senator from Illinois will let us consider this problem in committee in the great depth which the subject matter deserves.

It seems to me that it should not be necessary for a freshman Senator to speak of the importance of the committee system in a legislative body.

We are violating it, to the detriment of the entire country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. Mr. President, I yield 9 minutes to the Senator from Connecticut.

Mr. DODD. Mr. President, the U.S. Constitution stands as the most brilliant and effective charter of government in the history of the human race.

In 175 years of government, the American people have amended the Constitution only 14 times since the first 10 amendments were added in 1791.

We have been hesitant to tamper with this magnificent plan of government, even in times of national crisis and public outcry.

The Founding Fathers recognized that times of public discontent might militate for constitutional revision. So they provided a difficult, long, and orderly process for amendment so that discontent could not easily be translated into the potential disaster of hasty constitutional change.

Those wise men who created our plan of government prudently provided that the Constitution could be amended only by a two-thirds vote of the Congress followed by a ratification by a full three-fourths of the States.

If we keep faith with the Founding Fathers and if we accept the lessons of our history, we will not amend the Constitution under pressure, in haste, or without taking a very long, thoughtful look at the conditions we seek to change.

Yet today we are asked to vote on a proposal for constitutional revision which has not been subjected to the time-proven tests of legislative prudence, as the Senator from Indiana has pointed out.

Barely 12 months after the Supreme Court's decision that each citizen must be equally represented in State legislatures, some ask us to overturn that decision by constitutional amendment.

No one has pointed to any evils which may flow from that decision.

No wonder. Fewer than half the States have even been reapportioned under it. And only a handful of reapportioned legislatures have met.

Furthermore, as the Senator from Indiana has said, the amendment we are asked to approve has been brought to the floor without the normal consideration given to legislation as vital as a constitutional amendment.

Although one version of the proposed amendment was voted upon in the subcommittee, the form of the amendment we are asked to vote upon today has been barely considered and has never been voted upon in any Senate committee or subcommittee.

We have no committee or subcommittee reports from either House of Congress to point out its strengths and weaknesses.

Under these circumstances, I cannot support this amendment.

In fact, in the light of serious defects in the amendment, I must vote against it.

Yet no Senator has been more concerned than I with the problems of fair State legislative apportionment.

And there has been plenty of cause for concern.

For decades, the legislature of practically every State has been grossly malapportioned.

The majority of State legislatures, some in flagrant violation of their own State constitutions, refused to reapportion themselves to reflect the radical shifts in population which have occurred in nearly every State since the 19th century.

Prior to the Court's decision in the reapportionment cases, the legislatures in more than half the States could be controlled by fewer than two-fifths of a State's population.

In one of our States, less than 15 percent of the population could control both houses of the State legislature.

In fact, for many years in my own State of Connecticut the population ratio between the most populous State legislative district and the least populous was 427 to 1. The 382 people of one small town in my State could elect as many representatives as the 162,178 people of the largest city in the State.

This failure on the part of most States to fairly apportion themselves violates the tradition of American State government.

The people of this Nation revolted against their mother country under the banner of "no taxation without representation." The original constitutions of 36 States embodied that revolutionary principle of fair representation by providing for State legislative apportionment based completely, or substantially so, on population.

What happened to change this predominant pattern of equality of representation in State legislatures?

What created the grotesque and unfair pattern of unequal representation which prevailed among the States at the time of the Supreme Court's decisions on reapportionment?

The answer is simple.

Between 1890 and 1960 the population of this Nation shifted from 70 percent rural and 30 percent urban to 30 percent rural and 70 percent urban.

During those 70 years, most of the people who lived in many of the rural legislative districts created during the 19th century moved to the cities.

But the apportionment of State legislatures stood still, frozen in the 19th-century pattern.

The malapportionment which resulted from the massive urban migration of the last seven decades destroyed the principle of majority rule in State governments.

At least 69 of the 99 State legislative houses in the United States in 1961 could be elected and controlled by less than 40 percent of a State's people. At least 52 of those houses could be controlled by less than 35 percent of the population.

By violating the principles of fair representation and majority rule which underlie our entire system of government, malapportionment has ripped the fabric of our Federal system.

It has paralyzed State legislatures in the face of modern problems.

Time after time State legislatures apportioned on a 19th-century census have proved unwilling or unable to cope with the problems of 20th-century life.

Time after time the people of the States, clustered increasingly in underrepresented urban centers, have had to turn to Washington for the answers to urgent State problems in such areas as health, transportation, urban planning, education, and conservation.

And Washington has answered these demands for essential action which the States, paralyzed by apportionment systems based on the population patterns and problems of the past, have been unwilling to recognize and remedy.

I cannot support any constitutional amendment which would permit continuation of the gross malapportionment which has imperiled our Federal system by depriving the majority of the people of the States from fair representation.

The amendment we are asked to enact would do just that.

The proposed amendment would allow a State to malapportion one house of its legislature as long as the malapportionment is approved by a popular vote.

No standards are established as to the degree of malapportionment the amendment will permit.

Time and time again I have heard Members of the Senate decry this continued and growing centralization in Washington. This is one of the real reasons for it.

Nothing in the amendment will prevent the urban majority of a State from malapportioning the legislature in its own favor and then ratifying that malapportionment in the popular election.

Nothing in the amendment will prevent a State from adopting a one-house legislature in which the representation of racial or rural minorities is unfairly diminished.

Never before in our national history, as far as I am aware, has anyone suggested that any of our basic freedoms and liberties should be subject to a popular vote.

No one has suggested that the extent of our freedom of religion or our freedom of the press should be decided by an election.

But this amendment would make the value of a man's vote depend on the results of a popular election on a plan of malapportionment.

I must oppose this amendment because it imperils the rights of the minority in the States and because it subjects the value of our cherished right to vote to popular opinion.

These perils this proposal poses to the right to vote, to fair representation, and to the Federal system demonstrate the folly of attempting to amend the Constitution in haste.

If we amend in haste, we will surely repent at leisure.

Mr. DIRKSEN. Mr. President, I yield 2 minutes to the distinguished Senator from Vermont [Mr. AIKEN].

Mr. AIKEN. Mr. President, I agree that at the time of the Supreme Court decision last year probably the legislatures of three-fourths of the States needed reapportioning in one or both branches.

I also agree that the rule of one man, one vote is a basic rule of good government. But I insist that neither the matter of apportionment nor the question of one man, one vote is the issue here today.

The issue today is whether one man having one vote shall be permitted to exercise that vote, especially in matters affecting our form of government.

One vote without the right to vote is simply a mockery, and that is why I support the Dirksen amendment.

I would let people vote on this matter. I would let them decide what the framework of their government should be. It is the most basic of all questions they could vote upon. The determined effort now being made to deny the people the right to vote, the right to decide, is clear-cut evidence in my mind that the people would disagree thoroughly with the opponents of the proposed amendment.

I support the Dirksen amendment.

Mr. DIRKSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Iowa [Mr. HICKENLOOPER].

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. HICKENLOOPER. Mr. President, I have some remarks in support of the Dirksen amendment. Complementary to what other Senators have said in support of the Dirksen amendment, it seems to me that this amendment would offer not only an opportunity to implement the basic philosophy of the Supreme Court decisions, but, in the last analysis, it would leave to the States themselves the decision as to whether or not the second house of a legislature is to be based on other than population.

That would leave the question for the States to determine. If the States desire to have both houses on a population basis, they can have that under the Dirksen amendment.

The amendment would not alter that right at all, and it would preserve the right of self-determination to the people of a State.

In my judgment there is no more serious hour in this body than when we are called upon to address ourselves to the basic nature of our Republic. I want to speak on that subject today, in support of the proposed constitutional amendment which would preserve our heritage of self-determination within the States of the Nation.

I use the term "preserve" advisedly in this context, because in these days of enormous change and reform and expansion of government any appeal to traditional values or procedures often is suspect on its face, without regard to the basic issues involved.

But the proposed amendment offered by the Senator from Illinois, [Mr. DIRKSEN], and others, can scarcely be called an appeal to tradition or a suggested return to the status quo of our political life. Instead, it is a hinge which will permit us to open the door to future apportionment of our State legislative districts, without closing the door either on the Supreme Court decisions in this regard or on the political heritage under which this Nation has written an unprecedented history of achievements.

One fundamental principle which has remained unchanged throughout all of that history is the Federal system and the principle of self-determination for the American people. It was basic to the Founding Fathers in their break from Great Britain, it was basic to the establishment of each of the States, and it is basic today at every level of government. We would no more attempt to undertake Federal apportionment of city council districts throughout the country than we would attempt to legislate a monarchy. Self-determination is an unquestioned fundamental in our country.

We trust the people and we derive our powers from them. Theoretically, at least, the people—as citizens, as voters—retain all those powers which are not specifically enumerated to the States or to the Federal Government.

It is now our obligation, in the Congress, and in the State legislatures themselves, to protect those powers. It is now our responsibility, beginning where the Court left off, to make certain that no man's vote is reduced to a meaningless exercise. It is our duty to create effective protection against abuse of the citizen by certain political interests which would use the Court decisions for self-seeking aggrandizement through minority rule.

This the so-called Dirksen amendment is prepared to do. By the simple means of permitting the voters of the States to determine the form and composition of one house of their legislature—by simply spelling out their continued right of self-determination, and always against an alternative proposal based solely upon population—this amendment will provide periodic opportunities for them to decide whether to apportion one house on factors other than population alone.

Significantly, the opposition to continuing this right of the people is not based substantially on constitutional or legal grounds. We are under no Supreme Court injunction to refrain from acting on this issue. The opposition is based almost solely on political precepts.

Those who see the greatest immediate gain at the polls through the so-called one-man, one-vote concept are those who would take the revolutionary step today of denying American voters a voice in the makeup of their legislatures. Others of us who see an inherent danger to constitutional government in the concept of minority rule are convinced that this amendment is an essential bridge between the past and the future.

The opponents of this proposed safeguard by and large never addressed themselves to this subject prior to the Supreme Court decisions. Yet today these same opponents are constantly criticizing the histories of so-called malapportioned State legislatures, as though the progress of our States throughout all the decades past were to be measured against this standard of apportionment instead of the realities of history.

I reject this criticism completely. I do not believe the histories of our States need apologies, any more than I question the capacities of the voters of any State to engage wisely in self-government.

My own State of Iowa has a State legislature which some of my distinguished colleagues would define as "malapportioned." But the record of that legislature and the record of that great State are sources of tremendous pride to the people of Iowa and to me.

This malapportioned legislature of ours has created such an outstanding school system that Iowa today can boast the highest literacy rate in the United States.

This malapportioned legislature has created three great universities whose academic standards are acknowledged throughout the Nation and the world—Iowa State University, Iowa State College, and the State University of Iowa.

This malapportioned legislature has developed the Home Economics School at Ames into a model of its kind not only for the United States but for the world.

This malapportioned legislature has given the State of Iowa one of the finest highway systems in the Midwest, with an outstanding ancillary road system to move the products of our farms to the markets of America.

And this great malapportioned legislature has created, maintained, and expanded a magnificent public health system, operating efficiently and effectively under the self-help concept of the Kerr-Mills bill.

And so, to my distinguished colleagues in opposition to this amendment, I would counsel: Look to the States and you will see that "malapportioned" legislatures are responsive to the needs of the people. They have balance. They have cross sections of interest—economic, geographic, legal, ethnic, political.

They are not weighted solely by a standard of numbers; they are not weighted to favor a big-city vote over a small-city vote, as you would restrict them to do. They are balanced, and their balance is their formula for progress.

Iowa certainly is not alone in this regard. The great State of California is another obvious case in point. Many of my distinguished colleagues allege that California's State senate is the most malapportioned in the Nation.

Yet, as the No. 1 farm State in the country, Iowa welcomes the opportunity to acknowledge that California is the No. 1 income-producing farm State in America, and that its great agricultural industries have benefited enormously from the enlightened farm legislation coming from its "malapportioned" legislature.

I call the Senators' attention to the fact that California also has an enlightened FEPC program, some of the Nation's best highways, most progressive schools, beneficial welfare programs, forward-looking labor legislation, and more protective programs for the aged, to name but a few of the achievements in which its "malapportioned" senate may claim partnership.

So I would suggest to my distinguished colleagues that they are in error if they assume that a senator elected on a basis of geography is less able to vote in the interests of his entire State than one who is elected on a basis of population alone.

And yet there are, I admit, certain services in my State, at least, which the government and the people of Iowa do not provide themselves—and there are two reasons why this is so.

First, the people of Iowa traditionally reject bond issues. Generally speaking, they will not commit themselves to long-term, interest-paying obligations. In the last 10 years, the State of Iowa has passed one bond issue—$26 million for Korean war veterans; and one in 1948 for World War II veterans. The State treasurer says that it would take 2 weeks to determine the number that had been rejected.

Second, they have placed debt ceilings and tax-rate limits directly in their State constitution so that neither State nor local debts, nor State or local taxes, could become oppressively great.

The people of Iowa have refused to increase either ceiling.

Now I presume my colleagues would say that my people have refused to increase their debt or tax ceilings not because of an overriding sense of frugality or prudence or fiscal responsibility, but

because allegedly they know they can get the same services they deny themselves by asking Washington for them, since the cost from that source simply would be added to the national debt for their grandchildren to pay.

This is the common assumption, or at least the common claim, of those opposed to this amendment—that malapportioned State legislatures are a failure, and therefore their people are forced to turn to a burgeoning Federal Government if their needs are to be met.

But this allegation I also reject categorically. Has a single Senator from a single State with a one-man, one-vote legislature asked this Congress to exempt his State from Federal programs, on the grounds that his legislature is now so efficient and effective and perfectly representative that his people no longer need turn to Washington for redress of their needs?

Of course the answer is "No." And it will always be no.

For the Senators know this is not a valid excuse for the growth of the Federal Government. More than 100 years ago De Tocqueville foresaw the dangers of government which would seek to keep men in perpetual childhood with minimal need to act and think on their own.

Today that danger is being realized in reality. The Federal Government has become massive, and the States have had their capacity to serve diminished by those who are sowing tax money in every possible field to harvest votes. The aggrandizement of Government is continued, to the accompanied weakening of individual will, by those who would build power by promising solutions to all problems.

It is not the weakness of the States that has fed the growth of the Federal Government. Instead, it is the growth of the Federal Government that has weakened the States.

They will be weakened further—and they could be weakened fatally, to the everlasting detriment of our country—if this apportionment amendment is not passed and ratified. For without this amendment, State legislatures could be reduced almost to the status of committees for city councils in the largest cities of the States.

I ask you, Mr. President, to consider carefully the political consequences which would concern us all, if the substance of this proposed amendment is not written into the Constitution of the United States.

Each of us is here as a product of the political system of free choice which we hold so dear in this Nation. We have competed fairly—and as Senators we have won on a one-man, one-vote basis only insofar as our own electorates are concerned, while our respective electorates are weighted vastly different one from the other. Those of us representing States of widely diverse interests, such as my own where there is a healthy economic balance between agriculture and industry as well as a healthy political balance between rural and urban voters, believe we are accountable to the whole and must serve the whole, rather than any favored segment or powerful fraction of it.

Now if this system of free choice is denied the States—if the right which was theirs until 2 years ago is permanently abrogated—what will be the consequences to the States themselves, to the Nation, and to us?

Considering the States first, we know of course the defeat of this proposed amendment would insure urban domination of both houses of the State legislatures apportioned strictly on a popular basis. Simply, for example, New York City would dominate the New York State Legislature, leaving the upstate areas permanently almost voiceless and western New York permanently almost powerless. The pattern, if not the geography, would be the same in Chicago's domination of Illinois, or Los Angeles' domination of California, or a score of other cities dominating a score of other States.

In response to those arguments that this would assure justified political representation to millions of urban voters, I reply that it would also deny a voice in the management of State affairs to millions of additional citizens and voters outside the largest urban areas—and to deny anyone an effective franchise cannot be justified.

And even if we proposed to justify it—even if we turned our backs now on the right of every citizen to cast a meaningful vote, after ourselves voting in two successive Congresses to preserve and protect minority rights—even if we ignored the moral aspects of wrongly saying, "We will permit by default the concentration of political power in the hands of a few"—we would still be committing an error in political judgment unworthy of any Senator who has earned election to this Chamber.

Let us look at the inevitable process.

A generation ago this Nation was thoroughly familiar with the consequences of urban domination of certain States. There was incredible abuse of the democratic process by those self-perpetuating political machines in which political power was looked upon as private property rather than as a public trust. The public business was conducted more by coercion than by consent.

Fortunately, in the never-ending process of perfecting and maturing our system of representative government, that age is now virtually past. The political trusts have been broken. Government of the overwhelming majority of our cities is responsive to the wills of the people, and the governments of our States are responsive to the electorate, rather than to the bosses of the cities.

Yet suddenly we stand on the brink of reversing that progress. If we permit the major cities to control the major States, without their representation being subjected to the checks and balances which are traditional to the success of our country's political system, then inevitably we will invite the creation of new bossism within the cities.

Without question the great masses of population now swelling our cities deserve adjustment in their representation. This proposed amendment permits that adjustment, not just once but periodically, regularly, and subject to their own approval.

Yet, if that adjustment is levied arbitrarily and without regard to the balance of a State's population, then we shall be permitting great masses of voters, in the words of Raymond Moley, "to work their will and promote their interests without check or restraint."

In a compelling article in the June 14 issues of Newsweek, Mr. Moley said:

> The suggestion of the necessity of countervailing forces to assure deliberation of debate and legislative calm these days may be excoriated by the gentle knights of change. But sober reflections on the motives and habits of the people in the mass must tell us of the need for balance.
>
> When power is given without limitation to people in the mass, they do not make their decisions by individual and rational choice. They move as a unit, dominated by their social and economic environment—and their leaders.

Mr. Moley continued by saying that in the industrial centers today the principal leaders are the political bosses and the labor leaders. He wrote:

> For more than a century these urban areas were boss controlled. Some still are. But as Federal welfare grew after the middle of the 1930's, the bosses became mere proconsuls under the Federal establishment which had unlimited funds to supplant the machine's treasury. This, it seemed, meant the twilight of the boss and the machine. Like Othello, they found their occupation gone.

But Mr. Moley went on to point out that reapportionment will throw control of the legislatures back to the city machines. It will mark a revival of the old order. It will restore concentrated power without checks or restraints, for in many States the uban organizations will dominate the State capitals. And through control of the legislatures, legislative majorities machines-tooled in the cities inevitably will next redraw congressional districts to perpetuate in the House of Representatives a concentration of such enormous power that the Representatives of no more than six cities in this Nation could control the fate of every piece of Federal legislation.

To those of us in this body, that prospect must be a compelling consideration today—for if the day ever arrives when half a dozen city machines control the power of the House, then Senators we will be forced to prove that it can't happen here. As realists, as products of the elective system, we know that those of us from States which do not have one of the 6, 10, or 12 largest cities could very well be reduced to a political impotence equal to the silenced millions outside the major cities who would have no voice in their State governments. Those others who do come from those States with those cities under those bosses would, I know, sense the political perils of free thought in this deliberative body if and when it should be in conflict with the will of those few lords of the cities.

This is the ultimate nature of the change we are facing. It is our opportunity now to prevent it from happening. We may never have this chance again.

If we believe in the need for balanced representation, we have here a vehicle with which to preserve it.

If we abhor the concentration of political power at the expense of many, we now have an injunction against it.

If we trust the American voters of 20, 50, or 100 years from now to decide what is best for themselves, we have the responsibility today to permit them that choice.

Members of the Senate, ours is not a government by plebiscite. But if its deliberative bodies were to be destroyed, we would do far better to establish government by plebiscite than to submit to the tyranny of a minority. It is the decisive minority against which this amendment offers protection—and for all Americans this amendment preserves freedom of choice in the composition of their government, in the scope of their government, and in the control of their governments.

I urge you to reaffirm this freedom as one that is just as inalienable as the personal choice of religion, or a place to live, or a newspaper to read. If we fail in this obligation and the future brings the consequences I have foreseen here today, or even a modification of those ill-effects, the American people of years to come who inherit this political legacy will look back to this hour in 1965 and say, that was the day when our franchise was betrayed.

But if this Congress submits this amendment to the States for ratification—and more than half the States already have indicated their profound desire to approve such an amendment—then I suggest we will have done our utmost to preserve truly a great society created out of the fabric of representative government.

Mr. DIRKSEN. Mr. President, I yield 3 minutes to the junior Senator from Iowa.

Mr. MILLER. Mr. President, I will support the Dirksen amendment as it now appears before the Senate.

It is difficult for me to understand how some of the opponents of the amendment could really be opposed.

Perhaps they sincerely believe that the one-man, one-vote doctrine should apply to both houses of a State legislature.

Insofar as the Dirksen amendment would require that doctrine to be applied to one house of a bicameral State legislature, there would be no argument.

The argument turns on the composition of the second house of a bicameral State legislature. To those who believe the second house should also be based strictly on population—on the one-man, one-vote principle, I think the argument boils down to this:

The opponents of the Dirksen amendment wish to have the principle apply to the second house absolutely, regardless of the wishes and the needs of the people of a State.

The proponents of the Dirksen amendment wish to have the principle apply to the second house only if a majority of the people of a State, in a general referendum, wish to have it apply.

I find the position of the opponents very inconsistent. In effect, they say that they want the people to be in control of the second house of a bicameral legislature. At the same time, they are unwilling to let the people decide that very question. It seems to me that either they trust the people or they don't trust them. If they trust the people, they should have no difficulty in supporting the Dirksen amendment.

If the Dirksen amendment is adopted, we know that one house must be on a population basis. And if the people of a State, in a general referendum, vote to have the second house also on a population basis, then both houses will be based strictly on population. On the other hand, if the people vote to have the second house apportioned on both population and area—geographical or political subdivision factors—that is the way it will be.

Furthermore, so that the plan for apportioning the second house is not locked in forevermore, and to enable the people to review the situation at reasonable intervals, the Dirksen amendment requires that the people have an opportunity to vote out the existing plan after each decennial census. If they have been operating on a basis of both houses apportioned according to population, they will have a chance to vote in a new plan with the second house based on population and other factors. If they have been operating on a basis of one house on population and the other house on population and other factors, they will have a chance to vote in a new plan with both houses based on population.

It is also clear that the protection of racial, religious, and political minorities furnished by the Constitution of the United States will still be present. If a plan of apportionment with the second house based on factors other than mere population lays a foundation for discrimination by reason of race, color, or creed, the 14th amendment to the Constitution of the United States will enable a Federal court to grant relief.

There are some sincere individuals who express concern lest one house of their State legislature be based solely on population and the other house be based on factors other than population in such manner as to cause overrepresentation to certain segments of the population. The answer is that this is for the people to decide, with the understanding, of course, that discrimination will still be prohibited under the 14th amendment to the Constitution. As one of the Members of the Senate who supported the Civil Rights Act of 1964 and the Voting Rights Act of 1965, I am not about to join in supporting any measure which will undo the work we have done in this deeply important area of human rights. If, for the sake of argument, the referendum by the people of a plan of reapportionment should be conducted in a manner which disenfranchises any of our citizens, I am sure the Supreme Court would very quickly throw out the plan of apportionment. If the plan of apportionment itself would discriminate by reason of race, color, or creed, I am sure the Federal courts would have no trouble in throwing out the plan under the equal protection of the laws clause of the 14th amendment to the Constitution.

There are some opponents who allege that the plan of apportionment relating to the second house of a State legislature might be developed to perpetuate in office the State legislators. This position is not valid. If the State legislators do nothing, then both houses of the legislature will be apportioned strictly according to population. If they come up with a plan for the second house which locks in these legislators, it will still be for the people of the State to decide whether the plan will be approved. And if the plan is not approved, then both houses will be based strictly on population. In short, if there is any perpetuation in office of any legislators, it will be done by a majority of the people of the State in a general referendum and by nobody else.

As a member of our Iowa State Legislature for a number of years, I took part in the leadership to provide reapportionment. I know something about this problem. At the time I served, roughly 30 percent of the people controlled both houses of the legislature. Also, I happen to come from one of the largest counties in Iowa, and I always felt we were not given fair representation in the legislature. This is not a Republican or Democratic fight. Nor is it a rural and urban fight either. Farmers living in my county were as underrepresented in the legisature as people living in the county's major city. And Democrats as well as Republicans living in my county were equally underrepresented. I suppose one might say that the clash over reapportionment has primarily been between the large population counties and the small population counties, and nothing more.

The principle we are striving for here is one of reserving to the people their powers of government. Under our system of government, we say that the people retain the ultimate power. It is not the Supreme Court, because if they do not agree with the Court's interpretation of the Constitution, the people can change the Constitution. That is what we are trying to do here—and if this amendment is adopted, it will still have to be ratified by three-fourths of the States. Once ratified, it would still be left to the people of a State to decide the makeup of one house of their legislature. The other house would have to be on a strict population basis. If the people wish to give some added weight in representation in the second house to mining areas, to ranching areas, to industrial areas, or to recreational areas because of their impact on the economic future of the State and to the job opportunities of the people of the State, why should they not have this right? If they do not wish to give some added weight to factors other than population and they wish to have the second house based on population, why should they not have the right to decide this for themselves? I think they should. And that is exactly what the Dirksen amendment is all about—nothing more, nothing less.

In conclusion, let me lay to rest another fallacy. There are some who suggest that the one-man, one-vote principle is basic—just like the right to free speech. It is not so. The right to free speech exists at the Federal, State, and local levels. The one-man, one-vote principle exists only at the State and local levels—not at the Federal level. It is not a true, fundamental right, or it would exist at the Federal level too.

Mr. DOUGLAS. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DOUGLAS. What is the remaining time?

The PRESIDING OFFICER. The senior Senator from Illinois [Mr. DOUGLAS] has 47 minutes. The junior Senator from Illinois [Mr. DIRKSEN] has 64 minutes.

Mr. DOUGLAS. In view of the time situation I suggest that my friend and colleague [Mr. DIRKSEN] use some of his time, and we shall use some of our our time, but of course, we shall permit him to close the debate.

Mr. DIRKSEN. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIRKSEN] is recognized.

Mr. DIRKSEN. Mr. President, I presume one might call this "D-day," not because it is Douglas day or Dirksen day, but rather because it is decision day.

At the outset, I thank my distinguished colleague [Mr. DOUGLAS], and his associates who have been active in the discussion of this resolution for their forbearance and kindness.

We have tried to be equally forbearing, and we have tried at all times to cooperate in the interest of bringing the issue to an ultimate conclusion.

Mr. DOUGLAS. I thank my colleague. I assure my colleague that that has been our intention and our desire also.

Mr. DIRKSEN. I believe the country has taken note of the issue. I have talked with some who have been through various regions of the country, making observations, both political and otherwise. Let no Senator believe that this issue is not fundamental, or that the people are not taking account of it.

Let no one for a moment get the idea that this is the end, if perchance we should not prevail. I stated to the Senate before that I play for keeps. I made that statement to a distinguished visitor in the person of Mr. George Meany, the president of the AFL–CIO, and one of his assistants, who came to see me this morning.

I said that I shall use every weapon in the arsenal, and I intend to do so from now on. There will be no hiatus in this effort because I esteem it of such importance to the country. If I get nothing else done, I hope I can make some telling marks in the interest of this proposal for the well-being of our people.

I have been lampooned; I have been cartooned. A local cartoonist likes to cast me in the character of Red Skelton, who happens to be a friend of mine, but the cartoonist always depicts Red as a hobo with my name on the figure. I do not mind.

There have been editorials and there have been particles from one end of the country to the other. I believe it is now time to pull the elements of the question together and see where we are.

The genesis of this struggle was the Tennessee case of Baker against Carr. The Court said that it was a justiciable issue. But one of the interesting things about that case was the dissenting opinion of a great Associate Justice, Felix Frankfurter, who said the Court was getting itself into a political thicket. I have seldom read a better or more classical dissenting opinion than that. Mr. Justice Frankfurter shared with Mr. Justice John Marshall Harlan, now on the bench, the sentiment with respect to the authority and the competence of the Court to intrude iself into this domain and undertake to become an amending power of the Constitution. That is a power that is exclusively and carefully saved for the Congress of the United States or for the people when they initiate amendments by petition for the holding of a convention.

There have been other cases.

Then came the case from Alabama, of Reynolds against Sims. Interestingly enough, that happened on the 15th of June 1964, only 14 months ago. It was in that case that Justice Harlan, after doing a great amount of research work, finally wrote what I regard as a classical dissent that will go down in history. I make this statement in all kindness, but I doubt if some of the Justices did their homework as Justice Harlan did—and examined all the debates on the 14th amendment, both in the House of Representatives and in the Senate—to make sure he was on solid ground.

Thereafter, of course, the first action came in the House of Representatives, where there were introduced a great number of bills. One bill in particular was introduced by the former distinguished Governor of Virginia, Representative TUCK. That bill would have denied to the Federal courts the authority to entertain jurisdiction where representative apportionment was involved.

I saw the weakness in it, because it would not be retroactive and would look down the road. I entertained the same idea at one time, but the House of Representatives brought the question to a vote. Some Senators think I make an end run in the Senate and circumvent committees. I do not know how many times they have been circumvented, but 2 days of hearings were held on the Tuck bill in the House Judiciary Committee, and it looked to all the world as if the climate was unfavorable. What happened?

What happened? The House Committee on Rules, by a vote of 10 to 4, took it away from the Committee on the Judiciary and put it in the bosom of the House of Representatives with a rule for speedy action. What was the result? By a vote of 218 to 175, the House passed it and sent it to the Senate.

So it can be seen that where something fundamental is involved, the House has some idea, also, of how to expedite action.

I learned my rule book, after a fashion, a long time ago. When I see that I am confronted with what seems to be a hostile condition—I say it in the utmost kindliness—I then have to look elsewhere. I am reminded of what John Ruskin once said. There were three types of audiences—friendly, indifferent, and hostile. He said, "I will take a friendly audience; I will take a hostile audience; but I do not like an indifferent audience."

I had a hostile audience on that particular day, although we could get no consent to take a vote, or consent to vote the following week, or the following week.

But when the situation looked favorable to the opponents, and when they observed that three members of the committee were missing—all of them representing votes for the proposal that I have introduced—they were ready to vote; and they were ready. Mr. President, proxies cannot be voted in that committee. I almost lost my eyesight once and had to quit Congress; but I am not so blind that I cannot see what is going on. When I saw what was going on, I knew that I must repair to the rule book in order to have done what I wanted to do. That is precisely what I did.

The distinguished majority leader and I tried last year, in the 88th Congress, to buy a little time. That seems to be a good military expression. The distinguished majority leader and I teamed up, and the interesting thing was that we had some assistance from the Department of Justice when we brought it together and offered it as an amendment to the foreign aid bill.

Then began the business. When I say "the business," I mean that all the vocal stops were opened. We could not tell how long the debate would last.

Then came a substitute for our proposal—the Humphrey-Javits substitute. Once upon a time our distinguished Vice President could stand down here and reply to arguments. I remember saying at a dinner, "Now we have him where we want him. He cannot reply to anything. He is not entitled to make a speech on the Senate floor."

That proposal was one of those sense-of-the-Senate things. We had one up once before in connection with the Russian wheat deal. A man who graces this body today, the junior Senator from New York, ROBERT KENNEDY, was the Attorney General. When we pointed out that in an agricultural bill there was a provision stating the sense of the Senate with respect to shipments of wheat to the Soviet Union, he dismissed it in his opinion, saying that if Congress really intended to do so, it would have said so, instead of submitting it as the sense of the Senate. So that proposal got nowhere.

Finally we got together still another substitute, this one to order the courts to give us a respite in the matter. I used the term "a breather." We were not fooling ourselves as to what we were up against. There was a scheme of events that made it difficult. So we let it stand. For what reason? We all piled off to the national convention,

starting on the 22d of August. We did not return here until August 30. The amendment was still here.

Then my friend the distinguished majority leader [Mr. MANSFIELD] suggested that instead of ordering the court, we urge the court. Finally we disposed of the matter.

The distinguished Senator from Maryland [Mr. TYDINGS] at one time wanted to recommit this measure, saying that more time and deliberation were required, and that sort of thing. But I remind Senators that last year this proposal was before the Senate for 44 days. Twenty days were devoted to debate.

A moment ago the Senator from Connecticut [Mr. DODD] spoke about how cautious and careful we must be before we lay profane legislative hands upon the Constitution. I remind Senators that the ink was hardly dry on the Constitution when Jefferson, who happened to be in Paris, hurried back and offered 12 amendments. Two of them were discarded; the other 10 became the Bill of Rights.

Talk about taking time, I think we have taken all the time we needed in order to cope with this proposal. But we were seeking a breather then. That was where we left it on the 3d of October, last year, when Congress adjourned.

But I promised the Senate then that I would resume the battle; and on the 6th day of January of this year I introduced a joint resolution for myself and on behalf of 37 other Senators. It was referred to the Committee on the Judiciary and then was sent to the Subcommittee on Constitutional Amendments, presided over by my distinguished friend and Hoosier neighbor [Mr. BAYH], for whom I have great affection.

How long was the joint resolution in that subcommittee? There were 17 days of actual hearings. There were 74 witnesses. There were 121 statements. The subcommittee heard professors, farm experts, labor leaders, Governors, Members of the Senate, Members of the House, and many others. Everybody was free to come. The whole subject was explored. At long last, there had to be a meeting of the subcommittee for the markup.

I am not sure, but I believe almost every one of the subcommittee meetings was held in my office.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. BAYH. The subcommittee is indebted to the minority leader for his hospitality. That is correct. I only wish we could benefit further from his hospitality to do a little additional work on the measure.

Mr. DIRKSEN. I was delighted to turn over my office to the subcommittee in order to hammer out the differences.

My friend from Maryland [Mr. TYDINGS] on one occasion said, "It has been change, change, change." The medicare-social security bill contained 500 modifications, including the technical changes, as the Senator from Florida [Mr. SMATHERS], who is a member of the Committee on Finance, will attest. Five hundred modifications were made in that bill, and it was on that basis that it went to conference with the House.

Talk about changes; a Johns Hopkins professor, thinking he had isolated one truth, only to have it dissected and pulled apart by his associates on the faculty, fairly wept and said, "In God's name, is there nothing eternal?"

One of his associates said, "Yes. One thing is eternal, and that is change."

May the day never come when we cannot work our will and impress our convictions at every stage of the legislative procedure to make sure that we try to hammer out on the anvil of discussion the truths that we feel.

That we did; and then, of course, it went to the full Judiciary Committee. I shall not belabor the issue. I have had it placed in the executive notes and certified, because I wanted the world to know what happened in that meeting.

Mr. President, if anybody wants to find out whether there was a stacked deck, all he has to do is to look at the notes. It was then that I said I would get it to the floor in one way or another. So it is here, and it is in compliance with the rules. It is a complete substitute for the American Legion Baseball Week, which we shall take care of in time. It will not begin until the 1st of September. The Senator from South Dakota [Mr. MUNDT] has already introduced another Senate joint resolution.

An interesting committee comes under the jurisdiction of the Committee on the Judiciary. It has two members. I am the chairman. I am the only Republican chairman in the Senate. My colleague, the Senator from Arkansas [Mr. MCCLELLAN], and I can meet in a phone booth. We can report a bill and then take it to the full committee. That is expedition. We need a little expedition from time to time.

These efforts to obtain action have been tried before. There has been reference to the Stella School District bill. The distinguished occupant of the White House used to occupy that chair. He is the one who tacked the civil rights measure onto the Stella School District bill. It was a claim which involved approximately $2,000.

I learned my techniques in a good school under good tutelage. The man who occupies the White House pretty well knows the rules and the techniques of the Senate. Incidentally, if anyone has any doubts about it, when the distinguished majority leader and I went to see him concerning adjournment—it will have been 2 weeks ago this coming Friday—I said, "Mr. President, you promised me that you would not intervene in this matter." He said, "I have not done so."

I said, "The newspapers say that the Vice President has done so." He said, "Yes; I saw it." I said, "Then, call him up and tell him to stop it." He said, "I reassert to you the promise that I made before, that I have not intervened and I shall not intervene, because the President does not sign a joint resolution to amend the Constitution. This is for Congress and not for the President to determine." So, here we are. At this point, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Star under date of Sunday, August 1, 1965. The editorial has a very fetching title. It ought to make me feel good, because the title is, "We Vote for DIRKSEN." That is pretty good, is it not?

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WE VOTE FOR DIRKSEN

The Dirksen constitutional amendment, which would modify the Supreme Court's one-man, one-vote ruling, is slated for a decisive test in the Senate this week. Senator DIRKSEN and Senator MANSFIELD, the majority leader, have agreed to seek unanimous consent tomorrow for a showdown vote on Wednesday. If the opponents think they can block the two-thirds Senate vote required for passage of the Dirksen proposal, they presumably will go along with the unanimous consent appeal. If not, if they do not believe they have the needed negative votes, then a prolonged "liberal" filibuster is to be anticipated.

We think the Dirksen proposal, in its present form, should be approved. For it has been significantly improved since it was first submitted.

At one time it was feared that the amendment, if finally adopted, would enable State legislatures controlled by members representing a minority of a State's population to apportion one branch of a legislature on factors other than population. In other words, one house of the legislature might continue to be dominated by a minority of the population over the objection of the majority.

This is not true. The Dirksen amendment contains two key provisions. First, assuming ratification of the amendment, a State legislature wishing to act under it would be required to submit two plans to the voters of the State in a referendum. One plan would have to embody the one-man, one-vote concept. The other would authorize apportionment of one branch of a legislature on such factors as the people "deem appropriate." In short, at the very outset a majority of the voters in each State would have to approve any modification of the one-man, one-vote rule laid down by the Supreme Court last year.

Furthermore, a recent change in the amendment stipulates that any plan approved in an initial referendum would have to be resubmitted in a new referendum every 10 years.

To us, it seems perfectly clear that the amendment, far from protecting entrenched minorities, would enable the people of the States to have a voice in choosing their own form of government, and to revise their choice should they see fit to do so at 10-year intervals.

What could be more reasonable, more consistent with our democratic process? To oppose it on "liberal" grounds is absurd. We hope the Dirksen amendment will be called up this week, and that the necessary two-thirds vote to approve it will be forthcoming.

Mr. DIRKSEN. Mr. President, I believe it was Bruce Barton who once said that "everybody reads a commentary about the Bible, but never reads the Bible itself." This will not take long.

Mr. President, I ask to be warned at the end of 45 minutes; and I do not want to be told that I have used it already.

Mr. President, what does this amendment provide?

This is the way the amendment is before the Senate:

The people of a State may apportion one house of a bicameral legislature using population, geography, or political subdivisions as factors, giving each factor such weight as they deem appropriate, or giving similar weight to the same factors in apportioning a unicameral legislature, if in either case such plan of apportionment has been submitted to a vote of the people in accordance with law and with the provisions of this constitution and has been approved by a majority of those voting on that issue.

That is the simple language of the amendment resolution. It refers to the people. That is a great word.

I continue to read:

When the first plan of apportionment is submitted to a vote of the people under this section, there shall also be submitted, at the same election, an alternative plan of apportionment based upon substantial equality of population.

The people would have an opportunity to vote on two proposals, not only on whatever the legislature lays before them, but also on the proposition that embodies the philosophy of the finding of the high tribunal in the Reynolds against Sims decision.

How much further can we go in order to get back to a Federal-State system with a proper respect for the sovereignty of the State?

I continue to read:

Any plan of apportionment which has been approved under this article shall be resubmitted to a vote of the people, or, another plan may be submitted under the provisions of section 1, at the November general election, held 2 years following each year in which there is commenced any enumeration.

Enumeration of course, means census.

One of the arguments that was made was that they can make a plan and freeze it. I said, "All right. We will see that they do not freeze it."

So every 10 years, plus 2, when there is an election, they go back to the people with a plan. There can be no freeze. Once more the people have an opportunity to pass on the matter on the basis of one man, one vote.

I heard it argued by my distinguished friend and colleague the senior Senator from Illinois [Mr. DOUGLAS] and by others that, "Legislatures are so skillful and adroit that they can get something on the ballot in the form of a referendum, and people do not understand." The people understood judicial reform in Illinois. That was a pretty complicated business. They understand bond issues for schools and highways.

I have not seen anything yet that they do not understand. They have shown enough perspicacity to turn down an overwhelming number of things that have been submitted to them. Do not tell me that they do not understand. Do not tell me that, even in a malapportioned legislature, justice cannot be done.

Our distinguished friend the Senator from Wisconsin was in the Wisconsin State Legislature. He and I, and our distinguished friend the Senator from Pennsylvania [Mr. CLARK], and our friend the Senator from Pennsylvania [Mr. SCOTT], were on a television show downstairs. We laid it on hot and heavy. There was no kidding. I was not wearing any 16-ounces gloves when I slugged.

The Senator said, "We have apportionment on a population basis in Wisconsin for both branches of the legislature." I said, "Yes; but why not tell them that it was the legislature and not the Supreme Court that brought it about?" That is the difference. I want to go back.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. PROXMIRE. It was the Wisconsin Supreme Court that brought it about.

Mr. DIRKSEN. But the legislature of Wisconsin did it.

Mr. PROXMIRE. The legislature had failed to do it. The State supreme court ordered it to be done. It was done because the supreme court required it to be done. And it was done by the supreme court approving a plan proposed not by the State legislature but by the Governor.

Mr. DIRKSEN. That was a decision made within the State. The Senator should not give me that line. I know better.

Mr. President, that is all that we ask for. The Senator does not want his neighbors in Michigan to have that right. I am his neighbor. His father and mother used to live in my district. They were good Republicans. They always voted for me.

The Senator does not want his neighbors in Minnesota to have that right.

Mr. President, the whole burden of my argument has been: Go back to the people.

There was a distinguished Senator from that State, whose likeness appears in an oval frame in the room containing the likenesses of five great Senators. I refer to the elder Robert La Follette. He once thundered on the floor that the time had come to amend the Constitution and stop the legislatures from picking Senators, and let the people send them here. A dozen Senators walked out of this Chamber with contemptuous sneers on their faces. That prompted Bob La Follette to say, "The seats that are temporarily vacant will be permanently vacant"; and many of them were.

Back to the people—that is what I have been urging all along, because if we do not have a Federal-State system, what do we have, and what do we fight for?

The erosions are bad enough as it is. There was the Nelson case in Pennsylvania. Under the subversion law someone was indicted, and that conviction was sustained in the courts of that State. They had him redhanded, until it came to the highest tribunal, and it stated that because the Congress had passed the Smith-Connally Act, and had preempted the field, the law of Pennsylvania had no validity.

Section 14(b) of the Taft-Hartley Act is cooking on the front burner. That is why Mr. Meany came to see me this morning. He wanted to know how long it was going to last. He said, "I know how you feel about 14(b)." I told him that even if he could induce the Senate to allow the Chaplain to have a vote and he should vote with the other Senators for its repeal, I would still stand for opposing repeal.

It is proposed to say to 19 States, "You cannot legislate in that field."

If we let this decision stand without a constitutional amendment, the erosion will continue.

I see present in the Chamber my good friend from my State, Mr. YATES. I once ran against him. I am sorry, but glad in a way, because I won. What was done in the Equal Opportunity Act? It took away the veto power of the Governor. I see sitting in the Chamber my friend the Senator from Kansas [Mr. CARLSON], a former Governor; the Senator from Idaho [Mr. JORDAN], a former Governor; the Senator from Wyoming [Mr. SIMPSON], a former Governor of that State. There may be projects that the people do not want to see in Wyoming, but the Governor of that State is not going to have any veto power. It is proposed to take that power away.

So the erosion process is going forward by leaps and bounds. One day we shall be in the position referred to by the distinguished Democrat from my State, who occupied the Senate Chamber, who had pink whiskers and flashy waistcoats. I refer to J. Hamilton Lewis. We were staying at the same hotel. He used to say, "My boy." I used to brush the particles off his shoulders, and he would say, "Don't do that. I purposely put those on there." He would say, "I won't see it, but you will see the time when the only people interested in State boundaries will be Rand-McNally, for there will not be any authority left in the States." Mr. President, that is the erosion process.

I say to my friend the Senator from Maryland [Mr. TYDINGS], that when the Constitution was called before the constitutional convention of his State, only 2 days of consideration were given to it. It was ratified 63 to 11. One of the members had 15 amendments. The convention would not listen to him. They said that next week they would consider them, because Saturday and Sunday intervened. Then they turned them down. So the Constitution of the United States received 2 days' discussion in the legislature in the constitutional convention of Maryland. I went back and looked up my history as to what happened there. So do not tell me we are rushing the amendment, because this has had attention.

It is said that this amendment is an attack on the Court. It is nothing of the kind. I am a lawyer. I respect the Court. I would be the last to attack the Court. But this is a remedy within the power of Congress. Always the court decision is there. The people can make their selection. If they do not do anything, they automatically come under the decision in Reynolds against Sims. How much further do we have to go?

It is said that the population basis works well. I say to the Senator from Maryland [Mr. TYDINGS], that he must excuse me for this, but the city of Baltimore has three Representatives, and it is

entitled only to two. One of the three is Representative SAM FRIEDEL. Representative FRIEDEL and his two colleagues have 52 years of cumulative service, and the city of Baltimore wants to keep them, so it is said in this case, "We have to ignore population." So some of us ignore it in one instance and insist on it in another.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr TYDINGS. What I said was that the Representatives from Baltimore should continue to represent the city and its suburbs, where there are 2 million people, if they were to receive fair representation, and that there should be a redistricting of the city of Baltimore. We need fair districting, just as we need fair apportionment.

Mr. DIRKSEN. All I know is what I read in the newspapers.

Mr. TYDINGS. One headline.

Mr. DIRKSEN. I read it in the Washington Star and I read it in the Washington Post. That newspaper loves to cartoon me.

So it is said that we are showing haste. This is no haste. It is said that this is an attack on the Court. This is no attack on the Court.

It is said that it reverses the Court. It does nothing of the kind. We go back to the people. If they fail, they automatically come under the provisions of the Court decision.

Senators speak about nonapportioned legislatures. I was distressed to hear my friend, the Senator from Wisconsin [Mr. PROXMIRE], and my friend the Senator from Maryland [Mr. TYDINGS], and even the Senator from Indiana [Mr. BAYH] talk about legislators in the State legislature being so anxious to hold on to their seats that one could not get a fair shake.

Do Senators mean to tell me that only in the 50 legislatures is there a lust for public office?

Look around the Chamber and see how many Senators are going to run again. My colleague is going to run. He will be 73 years old—perhaps he already is. He says that 73 is too old to be President, and too old, perhaps, to be a judge, but it is not too old to be a Senator and, therefore, he is going to be back in this Chamber if possible.

Look at the list of Senators and see how many will run for reelection.

Are we so different from members of the legislature who wish to hold onto their seats?

Oh, indeed no.

When I got my first taste of Congress in 1933, and I was called Honorable, and invited to dinners without having to pay for them, and people came saluting me in my office, I thought, "This is for me. I do not wish ever to give up this office." And I fought to keep it until a malady made me resign; and later, by the grace of the voters of Illinois, I was sent to the Senate in 1950, and I thought, "The Senate is for me. There is no germaneness rule. You cannot be taken off your feet."

The amazing thing about expressing that kind of sentiment concerning the members of our State legislatures is that on the average they are no different from Members of the House of Representatives and the Senate in the Congress of the United States. If there is someone well under the age of 70, let us say, with a great deal of energy—and I exclude myself—who is not going to run for reelection, I have to see it.

The State legislators are no different, but they are honorable. I have found them to be honorable, and I would be the last man ever to demean other legislators in the State bodies of this country on the floor of the Senate.

Mr. BAYH. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. Yet we talk about malapportioned legislatures, and about the fact that legislators wish to hang onto their positions.

If the Senator from Indiana would request some time from his Senator in charge of the measure, because this will give me a little extra time which I shall need, I shall be glad to yield to the Senator from Indiana on that basis.

Mr. BAYH. I shall need only 1 minute to reply.

Mr. DOUGLAS. Mr. President, I yield 1 minute to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 1 minute.

Mr. BAYH. Mr. President——

Mr. DIRKSEN. Give the Senator 2 minutes because I gave the Senator from Maryland 1 minute.

Mr. BAYH. Mr. President, I wish to answer my colleague from Illinois, because he has referred to me.

I hope that in the many decisions he has had, as the Senator in charge of this measure, he did not misinterpret or misunderstand the thrust of my discussion about legislators themselves.

Having been a State legislator for 8 years, I have the greatest respect for what they do.

I merely referred to the history of the situation which seemed to show that in some legislatures, for as long as 7 years, legislators hung onto their seats in places where there was great disparity in the kind of representation which was being provided for many areas.

I did not in any way wish to demean the many men and women in my State, in the State of Illinois, and in the other 48 States, who serve their constituents with a great deal of honor.

Mr. DIRKSEN. Let me ask my friend the Senator from Indiana if he will tell me how he can talk about a malapportioned legislature made up of legislators who are so anxious to hold onto their seats that they are prepared to violate principle, and by adroit and skillful maneuvering to push something at the voters in a referendum that could be probably deciphered only after taking a course in Egyptian hieroglyphics. Although it seems to me that it may be a burden on a great deal of discussion on the floor of the Senate, I would not do it. I have too much respect for State legislators. When they present a plan, they must present two plans.

Then we come to the one-man, one-vote principle. There we have the one man, one vote within the framework of the Federal system. If that is what the people wish, well and good. But evidently, that is not what the Court wishes.

Senators should read Justice Harlan's decision concerning how the Court misinterpreted that one provision in the 14th amendment. He makes the point, and quotes the debate in House and Senate, to show that both sections 1 and 2 must be read together; but, instead of that, they pick out one phrase between two commas of the equal protection law, and that becomes the foundation for Reynolds against Sims.

That is why the Harlan decision is classic. That is why, one day, Congress will have to act on this matter if it is to save the Federal-State system.

Here we have a decision which, in a way, is a little like the prohibition amendment, when Congress said to the people, "Thou shalt not"—"thou" meaning "the people"—"shalt not manufacture, transport, and sell spirits with a little kick in them."

That was the first time in the history of our Constitution that a stop sign was erected against the people. Find me any other amendment to the Constitution which does that and I will eat it right out of the page in the rule book. How long did the 18th amendment last? Fourteen years—with all the mischief that went along with it.

In 1932, my party was overwhelmingly voted out of office, and not the least of the issues were bread and booze—and I use that term in a refined sense. Those were among the great issues on which Franklin Roosevelt went into the White House.

Fortunately for me, the discernment of the voters in my old congressional district back home gave me as much of a majority as they did Franklin Roosevelt. That is what I call discernment with a vengeance.

But, that was one time when we held up the halting hand to the people. It did not take long to take that amendment out of the Constitution—and it probably will never get back there.

That is exactly the import of the Supreme Court decision.

The Senator from North Carolina [Mr. ERVIN], representing the people of North Carolina, and the Senator from Arkansas [Mr. FULBRIGHT], representing the people of Arkansas, will comply with the Court not with what their people wish.

I go back to "We the people," because if that is not fundamental to the American system, I have never seen anything that is. We have made the issue as simple as we can. I believe that we are on good ground. I do not know whether we shall win or lose. I know that the nose-counting has been going on for many weeks.

There is one point I should like to correct. The intimation was made on this floor that I had hired the publicity firm of Whitaker & Baxter in California. I did not know that such a firm ever existed.

I could not accumulate enough money in a lifetime ever to be able to afford hiring a firm of that kind.

I do not even have one publicity man. However, it was made to appear that I had employed this firm, and that it had been doing work on this project. I do not know who hired them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. I do not know who is paying them. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 19 minutes remaining.

Mr. DIRKSEN. I am glad the firm is working on it. I wish they could do more to insure the success of the substitute that we shall be voting on before too long.

I believe that, generally speaking, is about all I wanted to say, except for perhaps one or two other things.

This is a pretty good time to stand up to our responsibilities as Senators, because when we talk about "We, the people," we go back to the preamble of the Constitution. When we talk about "We, the people," we go back to the signers of the Declaration of Independence, and to that great red-haired, square-jawed Virginian, Thomas Jefferson, who wrote that immortal document. He said that governments derived their just powers from the consent of the governed.

Then they signed their names to that document. John Hancock wrote his name so high and big that the King could read it without his spectacles.

What happened to them? Five of those signers were captured by the British. Five lost their lives in the Revolutionary War. Most of them had their goods confiscated. One, who had 13 children and a sick wife, was harassed by the British and the Tories and others, to the point where he had to leave. He returned just in time to see his wife pass away. There were 13 children left.

Those men were willing to make a sacrifice for principle.

I add to all this that man from home, who stood in Gettysburg. All my life I had wanted to be asked to go up there to make the annual memorial address. Some years ago I was asked. It was a great day in my life.

Lincoln was there. He stood before a crowd of 5,000. Who knows how many heard him? At long last came his entreaty, and then his prayer that government of the people and for the people and by the people shall not perish from the earth.

If there is anything to this Federal-State relationship and to the sovereignty of States, that is hallowed for me.

Some may want to throw all that out the window and say that that is old hat, that that is old stuff, and that we cannot be encumbered with that sort of business any more. It still registers in my blood.

After I had been here for a while, almost 32 years ago, I made my first speech back home. It was a few years later. I said I had one suitcase full of ideas when I came here, and 4 suitcases of clothing. I said that the clothes had long since gone, but the ideas were pretty much intact.

Lyle Wilson, the columnist, has said that DIRKSEN has painted himself and his party into a corner. How stupid can one be?

In one corner is Jefferson, and in another corner is Lincoln; and I am happy to stand in that corner with my party, and go back to the people.

One wonders why I took exception to the substitute of my friend the Senator from New York [Mr. JAVITS], using those words that would put us back where we started.

I want the people of Illinois, as the occupants and residents of a sovereign State, to determine whether one branch of our legislature shall be apportioned according to their desires, taking into account geography, political subdivisions, or population.

I am sure Senators have read the statement of the Chief Justice, when he was Governor of the State of California, in 1948. Then he stood where I stand today, with this substitute. He said that for this was the thing which the State of California must have.

In the space of 15 or 16 years he did a 180° turn.

There sits the distinguished Senator from California [Mr. KUCHEL]. Four times the people of California, including populous Los Angeles County, voted on a proposal like this. They had their choice of voting on a population basis only or taking other factors into account. Four times they voted down population alone. They knew what they wanted. They knew what was good for their State.

It is no wonder that the State of California, populationwise is the No. 1 State in the Union, so far as I know.

It would have more Representatives in Congress than any other State. I do not like to see it. I do not like to see my own State surpassed even in this regard. Because the people of California have the perception to understand what they must have for a State like that, they should vote down the population idea alone. They had their choice in so doing.

Mr. President, I do not know that I need say any more, or that I need add anything else. How much time have I remaining?

The PRESIDING OFFICER. The Senator from Illinois has 13 minutes remaining.

Mr. DIRKSEN. I shall conclude, and save the remaining few minutes.

Mr. President, I want to wrap up this speech by telling what happened on the 17th of September 1787, in Philadelphia. That is the day action was completed on the Constitution of the United States. It was late in the afternoon. The first man out of the door was the venerable Benjamin Franklin. He was 83 years old at the time. He came out onto the lawn in the courtyard of Constitution Hall, where a number of women had gathered. Among them was the leader of a group. She was named Eleanor Powell. Her father had been mayor of Philadelphia. Her husband has been mayor of Philadelphia. She was quite a politician in her own right. She walked up to Benjamin Franklin and, presumably holding him by the shoulder, said, "Mr. Franklin, what have we got—a monarchy or a republic?"

Quick as a flash, Benjamin Franklin said, "A republic, if you can keep it."

What great sentiment.

That Constitution guarantees every State a republican form of government. We have a republican form of government in this country, because it is representative.

Coming down the corridor of time is this great echoing challenge of Franklin—"If you can keep it."

I want to keep it.

That is the reason why I go along with John Marshall Harlan in his great decision, when he points out that federalism is in danger in this country, contrary to the remarks made by the senior Senator from Oregon earlier this afternoon on the floor.

That is the issue. It will not die. I do not propose to let it die.

There will be other proposed legislation. There will be a place to hook it on. I may not succeed, but this I must do for the people of my State and the people of other States.

I can only add, in the language of one who saw Caesar with all those stab wounds, and Brutus with his apology, "not that I love Caesar less, but that I love Rome more."

I love this country. My parents came from the old country. I went to school in overalls. I lost my father at the age of 5. Drew Pearson was right this morning when he referred to me as the driver of a bakery truck. Yes; I was.

Show me the country that will give any humble person the opportunity that this country does. I do not want it eroded; I do not want it soiled; I do not want it impaired. I want no court to somehow destroy this great inheritance that has come from men who signed the Declaration of Independence, who vouchsafed to us the greatest government on the face of the earth, and for which, and because we hope to maintain its perpetuity, we have boys 12,000 miles from home.

I say to Senators—mark it well—"You have not heard the last of this." It will be tragic indeed when we have to campaign and say, "We are sorry; we tried to make you understand, but we could not and so we can only say, "You do not love the people. You do not trust them." That is better yet. We would say, "You do not trust them to pass on this matter."

May it never be said of me that I quailed in the endeaver to keep my trust in the people and keep intact the power which the people reserved to themselves in 1787, until they are prepared to forfeit it to the Central Government in Washington.

Mrs. SMITH. Mr. President, will the Senator from Illinois yield for a question?

Mr. DIRKSEN. I yield with pleasure.

Mrs. SMITH. Mr. President, in reply to my earlier statement today, the distinguished senior Senator from Illinois, for whom I have the greatest respect and friendship—and who, I am proud to say, was once a resident of Maine and an honor graduate of Bowdoin College—called attention to that

part of Article V of the Constitution which states:

> No State without its consent shall be deprived of its equal suffrage in the Senate.

Because of this, I ask the distinguished minority leader if a State should not be permitted to follow the pattern of the founders of our Nation and the framers of the Constitution by adopting a similar "no county without its consent shall be deprived of its equal suffrage in the State senate," in view of that portion of section 4 of Article IV of the Constitution, which states that, "The United States shall guarantee to every State in this Union a republican form of government."

Mr. DIRKSEN. It does indeed, in the most specific words, and when the analogy was drawn with this body, which is not selected on the basis of population, the Chief Justice delivered an intriguing note. He said the analogy "is in apposition."

I am not sure that I know what that means.

I may have to look it up in the dictionary, but anyway, that was a sort of test of the analogy.

Of course, it was a compromise; and it was done by the people's representatives. It was submitted to the people or their conventions freely selected, and that is why we have a constitution; and that is why the States have constitutions in which powers are fixed and delegated to the legislature, to the executive and to the judiciary.

I say to the distinguished Senator from Maine that we have trusted them since 1818, when we came into the Union, and I am prepared to trust them a much longer time because, as Lincoln once said:

> The best rule, after all, is to let the people do pretty well as they please with their own business.

Mrs. SMITH. I thank the Senator.

Mr. DIRKSEN. I reserve the remainder of my time, if I have any left.

The PRESIDING OFFICER. Who yields time?

Mr. DOUGLAS. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois [Mr. DOUGLAS] is recognized.

Mr. DOUGLAS. Mr. President, we have listened for 55 minutes to a speech by my colleague full of charming irrelevancies, which covered virtually every subject under the sun except the amendment in question, to which he referred only incidentally and at random. It is somewhat difficult to reply to such a speech as that, which covers everything and touches nothing. I am unable to match my colleague either in oratory or in range of allusion; I shall have to confine myself to the subject and be prosaic and, I hope, brief.

Those of us who oppose this amendment are opposed to any amendment to the Constitution which subtracts from the equality of citizens before the law. That is why we oppose the amendment of my junior colleague. Putting aside all of the obfuscation and deception which has been introduced into the discussion of the issue, what the Dirksen amendment really seeks to do is to revoke an inalienable right which is now guaranteed by the Constitution of the United States, and in my judgment for ever guaranteed to human beings in the moral law which lies beneath the Constitution and in the inherent dignity of man. That right is the right to the equal protection of the laws under the Government of the United States.

As the Supreme Court has repeatedly held during this last year, men and women do not have the equal protection of the laws when they are denied an approximately equal vote to that of other citizens in the selection of their State legislature which makes the laws. It is true that most of the people in the world do not enjoy the rights of equal citizenship and are not protected in them. But for 190 million Americans, the greatest Constitution designed by the minds of men now protects the rights of the individual not only to stand equally before the courts of the land but to stand equally before the legislatures which make the laws of the land.

The purpose of the Dirksen amendment is to withdraw this right by giving the rotten-borough legislatures now in operation the power of self-perpetuation. There is no getting around that fact. It is an awesome and, in my judgment, an abominable proposal. The great deception upon which the proponents of the amendment rely is to say that all they are doing is letting the people decide, and, according to them, what could be more democratic than that?

As I pointed out earlier this week, this appeal is attractive, but it is also deceptive.

First, the claim of letting the people decide is without substance because the amendment carefully retains in the hands of the present malapportioned or rotten-borough legislatures—and it is now admitted even by the proponents of the Dirksen amendment that the present legislatures, with a few exceptions, are malapportioned—the initial and the crucial decision; namely, the ratification of the amendment itself.

While it is true that a number of legislatures have enacted reapportionment plans, most of those plans will not go into effect until the fall of 1966, and the approval by the Congress of the Dirksen amendment would be an open invitation for further obstruction and delay.

I am levying no special charge against these legislatures when I say that it is the natural tendency of human beings to hold onto such power as they possess and not to divest themselves of it even if they should.

Second, the amendment would retain in the hands of the present rotten borough legislatures the power to propose whatever plans of apportionment are offered to the people in referenda. They have the power to frame the questions and the terms under which they will be submitted to the people. Even though in the initial referendum there must be offered both a population plan and a malapportionment plan, a rotten-borough legislature may construct the proposal so as to force the approval of a "less bad" amendment rather than a worse one.

The Colorado referendum, which was held invalid by the Supreme Court in the Lucas case, is an excellent example of that.

Third, the so-called periodic review provided in the amendment continues to leave the actual decision in the hands of the forces of minority control and malapportionment. There is no requirement that an alternative plan based upon population be submitted under the review following a subsequent census. A legislature may propose for ratification the existing plan, which may be one of gross malapportionment due to the previous adoption of a plan, or due to population changes in the period since the prior referendum.

Mr. President, I have also pointed out that the argument of "letting the people decide" in a referendum is a deception because, in addition to the built-in protections for rotten-boroughism in the Dirksen amendment, referenda themselves, generally, are not an adequate vehicle to express public opinion, particularly on something so complex as apportionment. The facts show, first, that actual participation in such referenda is universally and absurdly low. In some cases, as little as 6 or 10 percent of the voting age population have made the decision on referenda on apportionment of the State legislatures. And from available data it is clear that even in referenda submitted at general elections decisions are made, on the average, by a total of less than 30 percent of the population of voting age.

Second, it is overwhelmingly clear that referenda, particularly on apportionment, are subject to widespread confusion in the understanding of the voters. It is virtually impossible for the average voter to understand the meaning of a complex referendum proposal. Consequently, he is more likely to ignore the question and not vote, or cast a vote without understanding it. There is a good question whether this truly and fairly expresses public opinion.

Third, the history of referendum campaigns in recent years shows that they are subject to manipulation by powerful interest groups, newspapers, and other communication media. Referenda have become, in this day of modern communications and propaganda techniques the tools of special interests rather than acceptable vehicles for the expression of an informed popular will. And I may point out that the special interests who may control the public understanding of referenda are the same special interests who have the greatest stake in preserving rotten-boroughism in the United States. Some of these very elements are behind the present movement to have Congress submit the Dirksen amendment to the States and to have it ratified by the legislatures.

Mr. President, another deception in the arguments for the Dirksen amendment is the assertion that it is perfectly proper to accord representation to other factors than population—and now these

are called geography and political subdivisions—in one house of a State legislature so long as the equal population principle is followed in the other house. Mr. President, I hope no one will be fooled by this argument. Since the forces of rotten-boroughism have been unable to preserve their control in both houses, they will settle for control in one. And for good reason. Minority control of one house of a legislature, as should be apparent to everyone, in actuality gives control over the State government to this minority by placing a veto in their hands. By that veto they can dictate what the final legislation shall be.

Mr. President, the issue before us, contrary to what appears from the facts on the surface, is not one of urban voters versus rural voters. It only appears this way because of the historical development of malapportionment. The malapportionment came about because the distribution of population changed in the last 75 years from being equally distributed to being concentrated in the great cities and suburbs.

In the metropolitan centers of cities and suburbs 70 percent of the population now live, as compared with only 30 percent in the smaller towns and the countryside, whereas 70 years ago the situation was precisely the opposite.

The needs of the great body of the people are much the same whether they live in rural or urban areas, but because most of the people are now concentrated in the cities and the suburbs their problems are intensified in quantity and in quality. Most of the people of this country, regardless of where they live, look to the governments of their States and of the Nation for the same things: An opportunity for their children to receive an education commensurate with their abilities, the opportunity to live decent lives in good health and with self-respect, and enjoyment of the rights of citizenship.

The real issue at stake here is whether the needs of the people are to be met by their State governments or whether those interests who oppose protections to the consumer and the revenues necessary to provide needed government services are to control and hold back the activities of the representatives of the people. All these narrow interests need in order to stop needed programs for essential government services for the great majority of the people is a minority control over one house of a State legislature. In many States their existing minority veto has been achieved through the years by an alliance with representatives from the more sparsely settled areas of the country. The retention of this veto against the interests of the great masses of consumers, wage and salaried workers, and the general body of citizens is the real purpose behind the Dirksen amendment.

This amendment in the final analysis, therefore, seeks to pull the wool over the eyes of the American people by having them believe that, if the mere procedures of representative government are followed, it matters not whether there is any substance to them. To say that some citizens may have a vote worth 10, 20, 50, 100, or 1,000 times the weight of the vote of other citizens is to make a near sham of democracy and a farce of constitutional, representative government. We may not be able to stop the Dirksen motion to substitute his amendment for the American Legion baseball resolution, but we should never submit his constitutional amendment to the States for ratification. Let us ultimately hold fast for the principle of substantial equality of representation of the people in the State legislatures. Let us be done with rotten-borough legislatures and vote down the Dirksen amendment.

There have been rumors on the floor of the Senate that at the last moment the proponents were going to bring a modification of the Dirksen amendment out of the box and onto the floor of the Senate for a vote, in the hope that this action would gain some votes so that the amendment could be adopted.

I am suspicious of all these last-minute tactics. I hope that if they are used, they will stand condemned in their own right and that we may vote down the Dirksen amendment or any amendments thereto.

Mr. DIRKSEN. Mr. President, I yield 1 minute to the distinguished Senator from Alaska.

THE SCRIPPS-HOWARD NEWSPAPERS SUPPORT THE DIRKSEN AMENDMENT

Mr. GRUENING. Mr. President, the Scripps-Howard newspapers published today an excellent and convincing leading editorial in support of the Dirksen amendment entitled: "The People Are the Last Word." It is sufficiently impressive and logical so that I desire to ask unanimous consent that it be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRUENING. Mr. President, the Scripps-Howard chain includes 17 newspapers, respectively, in New York City, Pittsburgh, Cleveland, Cincinnati, Memphis, Birmingham, Covington, Ky., Columbus, Ohio, Denver, El Paso, Fort Worth, Hollywood, Fla., Knoxville, Evansville, Albuquerque, and Washington, D.C., and should have considerable influence on the people of their communities.

I find myself in accord with the ideas expressed in this editorial and shall support the Dirksen amendment.

Although the entire editorial will appear following my remarks, I wish to read three sentences, as follows:

> But the Senators opposing the Dirksen amendment don't want the people to decide for themselves.
>
> * * * * *
>
> If the people in the States are not capable of deciding such basic questions as the manner in which they wish their legislatures to be organized, then it is valid to question the capacity of the people to decide other questions—who, for instance, should represent them in the U.S. Senate.
>
> * * * * *
>
> The issue now before the Senate is fundamental—the right of the people of the States to decide for themselves.

EXHIBIT 1

[From the Washington Daily News, Aug. 4, 1965]

THE PEOPLE ARE THE LAST WORD

In our system of government, as spelled out by the Constitution and every other principle we go by, the people are the final word.

But a substantial number of Members of the U.S. Senate, although generally classifying themselves as "liberals," are opposed to this system.

They demonstrate this opposition by the bitter manner in which they seek to defeat the so-called Dirksen amendment to the Constitution.

Last year, the Supreme Court, in an amazing ruling held that both houses of a State legislature had to be apportioned on a strict population basis—the so-called one-man, one-vote proposition. This, despite the State-by-State apportionment of the U.S. Senate, despite the constitutions of most States, despite recent and specific approval by the voters in some States of a difficult system.

Nobody wants to rip out the Supreme Court because of this airy decision, although the decision had the effect of ripping out most State legislatures.

The way to correct the Court's action is to write into the Federal Constitution an amendment. This amendment has been offered by Senator DIRKSEN, of Illinois. All the amendment says is that any State may set up one house of its legislature on other than a population basis if—emphasis on the if—the people of the State want it that way.

But the Senators opposing the Dirksen amendment don't want the people to decide for themselves. The plain implication is that the Senators know better than the people of the States what is a proper system for the States. Since many of these Senators have been among the most zealous champions of civil rights, their inconsistency on the Dirksen issue is beyond comprehension.

If the people in the States are not capable of deciding such basic questions as the manner in which they wish their legislatures to be organized, then it is valid to question the capacity of the people to decide other questions—who, for instance, should represent them in the U.S. Senate.

Maybe, if these anti-DIRKSEN Senators are right, we should go back to the old system of having U.S. Senators chosen by State legislatures. (We wouldn't favor that for a minute, but it is just as logical as the opposition to the Dirksen amendment.)

There are many arguments favoring the Dirksen amendment. But, regardless of all other arguments, the issue now before the Senate is fundamental—the right of the people of the States to decide for themselves. Despite all the windy debate, this is the only issue.

Mr. DIRKSEN. Mr. President, I should like to ask my distinguished colleague from Illinois if he has finished using his time.

Mr. DOUGLAS. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The senior Senator from Illinois has 30 minutes remaining.

Mr. DOUGLAS. I am not yet quite certain what feat of magic will appear from the other side of the aisle. I do not want to give up all the time. But I promise that unless some extraordinary feat of legerdemain is produced, we shall take very little time from now on.

Mr. DIRKSEN. Mr. President, I have 4 minutes left. I suppose that in 4 minutes Houdini could probably perform a feat of magic.

Mr. DOUGLAS. Mr. President, I yield my colleague 2 minutes.

Mr. DIRKSEN. I thank my colleague for his forbearance. Since he has that much time, and I have only 4 minutes, I think I shall save my 4 minutes and see what will happen. I assure my colleague that I have no aces up my sleeve.

The PRESIDING OFFICER. Who yields time?

Mr. DOUGLAS. Mr. President, I yield back the remainder of our time on the condition that my friend and colleague yields back the remainder of his time.

Mr. DIRKSEN. Mr. President, I yield back the remainder of my time with the exception of 2 minutes.

Mr. DOUGLAS. Mr. President, I yield back the remainder of my time with the exception of 1¾ minutes.

Mr. DIRKSEN. Mr. President, I should like to have the attention of my colleague. I do not know what I can say to my loyal friend who used to be on the faculty of the University of Chicago, and whose perception is great, except what is contained in the amendment.

It just states that the people may apportion one branch of a legislature according to population, geography, or political subdivision.

I do not know what else to say. If that is not clear, I am quite disturbed over the fact that my colleague does not understand the most elementary provision that we can couch in the English language. It will be all right if the plan is first submitted to the people for a vote in accordance with the law and the Constitution, and is approved by a majority.

How, by syntax, parsing a sentence, or by any other grammatical technique, can we make it any plainer than that?

The Senator said that my remarks were studded with irrelevant statements. I presented this matter. I do not know what else to say. If my colleague does not comprehend it now, I shall pray for him and hope that light and understanding will come.

My prayer will be like that of Solomon's, because I shall address the Lord and say, "Give him an understanding heart."

The PRESIDING OFFICER. Who yields time?

Mr. DOUGLAS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. Mr. President, I ask whether all time has been yielded back or expired.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HRUSKA. Mr. President, I send to the desk three amendments to the Dirksen substitute, which are clarifying in nature and ask that they be considered severally, and that the one designated as No. 1 be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 1, strike "or" and insert "and."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nebraska to the Dirksen substitute.

Mr. HRUSKA. Mr. President, I yield myself 2 minutes. My amendment would replace the disjunctive with a conjunctive in reference to the three factors which are permissible for apportioning one house of a State legislature.

This would bring within the meaning and intent of the substitute which was submitted earlier by the senior Senator from New York.

It would require the employment of all three of these factors in the apportionment of one house in any plan submitted under the amendment. That is its intent.

Mr. DIRKSEN. Mr. President, I discussed this subject with the distinguished Senator from Wisconsin, and also with the distinguished Senator from Maryland. This is a clarifying amendment. I have no objection, as the author of the substitute, to accepting the amendment.

The PRESIDING OFFICER. Has the Senator from Illinois modified his amendment?

Mr. DIRKSEN. Yes, as suggested.

The PRESIDING OFFICER. The amendment is so modified.

The clerk will state the second amendment proposed by the Senator from Nebraska.

The legislative clerk read as follows:

On page 2, line 2, strike "similar" and insert in lieu thereof "reasonable."

Mr. HRUSKA. Mr. President, I call the attention of the Senate to the fact that that was the original terminology of the Senate Joint Resolution 2. It was changed in the revisions that were made. In the case of the apportionment of a unicameral legislature reasonable weight could be given to the three factors specified under this amendment.

Mr. DIRKSEN. Mr. President, the Senator from Nebraska states the case accurately. We used the word "reasonable" all through any number of texts of the amendment. Frankly, I do not know quite how the word "similar" finally got in the measure. However, I presume that it was done in the subcommittee. The amendment being rather technical in nature, I have no objection to accepting it.

The PRESIDING OFFICER. The amendment is so modified.

Mr. JAVITS. Mr. President, by way of legislative history, does the Senator agree that the use of the word "reasonable" would subject the measure to the jurisdiction of the court, in the apportionment of a unicameral legislature?

Mr. DIRKSEN. The Senator is correct.

The PRESIDING OFFICER. The clerk will state the third amendment.

The legislative clerk read as follows:

On page 2, line 8, strike "the first" and insert in lieu thereof "a"; and in the same line 8, after "apportionment" insert "based on factors of population, geography, and political subdivisions".

Mr. HRUSKA. Mr. President, this, again, is a matter of clarification. The amendment would then read as follows:

When a plan of apportionment based on factors of population, geography, and political subdivisions is submitted to a vote of the people under this section there shall also be submitted, at the same election, an alternative plan of apportionment based upon substantial equality of population.

Under this amendment, alternate plans would appear simultaneously on the ballot for the purpose of permitting the people voting to exercise a choice as to one plan or the other. There had been confusion, in the minds of some, in the use of the words "the first."

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. HOLLAND. Does that amendment mean that, not only as to the first submission, but as to any subsequent submission after a decennial census, there must be two alternate proposals submitted to a vote of the people?

Mr. HRUSKA. That is my interpretation of it.

Mr. HOLLAND. I thank the distinguished Senator. He has been most helpful.

Mr. DIRKSEN. Mr. President, we regard these as clarifying amendments, and quite in accord with the assurances which I gave to the Senate that I would submit no drastic or significant changes of any kind. Having discussed these with those on the opposite side, I believe that they will agree that these are clarifying amendments.

Mr. BOGGS. Mr. President, I send to the desk an amendment to the Dirksen substitute, and ask that it be stated.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The legislative clerk read as follows:

On page 2, line 7, substitute a comma "," for the period "." and insert thereafter: "and provided that under such plan the people residing in the less populous geographic areas or political subdivisions of the State shall in no case have less representation in either house than they would have under a plan based upon substantial equality of individual votes."

Mr. BOGGS. Mr. President, I offer this amendment because I am concerned about a weakness in the Dirksen amendment which could work to the disadvantage of citizens in less-populated areas of reapportioned States. My own State of Delaware is included among the 20 or so States now in this category. Additional States are in the process of being reapportioned, and this weakness would also affect them.

Where reapportionment has taken place, it is the legislators from a State's more populous areas who are generally in the majority. If the Dirksen amendment were enacted, they would have a decisive influence over whatever reapportionment plan was proposed to the voters. The plan could be based on any combination of the factors of population, political subdivisions, and geography.

It is not reasonable to assume—from a logical or a political point of view—that these legislators would draw up or favor any plan which would lessen their position, or the position of the people they represent.

On the other hand, it is reasonable to suppose that a plan might be devised, perhaps even unintentionally, which would work to the disadvantage of citizens in less populous areas, and these areas would not have sufficient representation in the State legislature to stop it.

To take the case one step further, when a reapportionment plan was presented to the electorate in a referendum, the more populous areas of a State would have the built-in protection of numbers. They could vote down the referendum if they felt it would reduce the present situation in which they have an equal vote.

Voters in the less populous areas, on the other hand, would not have the voting strength to protect any weakening of their present equal vote status. A plan might be adopted which would diminish their representation and the weight of their individual votes.

My point, then, is that citizens in the less populous areas of States should be protected from this danger of having their individual votes whittled down. The rights of voters in these areas to an equal voice in the voting booth should not be left to the hope, charity, and political good will of the legislature plus a bare majority of the State's voters.

My amendment is designed to safeguard the voting rights of individuals in the less populous or rural areas by providing that any new apportionment plan could not give them any less representation in either house than they would have under a plan based upon substantial equality of individual votes.

Adoption of my amendment would mean, therefore, that no apportionment plan could cut back the present position of voters in less populous areas, a position in which their vote has equal weight with the vote of persons in the more populous areas.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BOGGS. I yield.

Mr. GORE. The Senator's amendment, if I interpret it correctly, would give to the people residing in less populous areas protection against the adoption of any plan under the proposed amendment which would lessen their proportionate share of representation. Is that correct?

Mr. BOGGS. That is true.

Mr. GORE. But it would not provide such protection for people living in the more populous areas of the State.

Mr. BOGGS. That is correct. I explained that in my statement by saying that those areas have a built-in protection, because the populous areas have a majority in both houses of the legislature and a majority in the referendum.

Mr. GORE. Will the Senator yield further?

Mr. BOGGS. I yield.

Mr. GORE. I wonder if the Senator would be willing to modify his amendment, the addition of which would read as follows:

> And provided that under such plan the people residing in either the less populous or the more populous geographic areas or political subdivision—
>
> And so forth—
>
> shall in no case have less representation—
>
> And so forth.

Mr. BOGGS. I have thought about this matter in studying the amendment. As I pointed out, the majority have a built-in protection in already reapportioned States. There is no need for it at all. The amendment is needed for the protection of the minority which does not have such protection in the legislature or in a referendum.

Mr. GORE. The built-in protections to which the Senator refers are people.

Mr. BOGGS. Yes.

Mr. GORE. Why be afraid of the people? Let the people vote.

Mr. BOGGS. We are not afraid of the people. We are giving them an opportunity to vote.

Mr. GORE. Why would not the Senator accept the modification of the amendment which would provide protection of the people in the more populous areas that he seeks to provide for people in the less populous areas?

Mr. BOGGS. For the reason, as I have already pointed out, that the majority is in the populous areas, and they have a built-in protection. Under the concept of the Dirksen amendment, it is the minority who do not have a voice or a vote to protect citizens' right in the legislature, and they are the ones who need this constitutional protection. The other group, the majority, have a built-in protection. They have the final decision. I have confidence they would vote to protect their interests, and I am happy to submit to their final judgment on it.

Mr. DIRKSEN. Mr. President, as I read this language, there is no specific guideline whatever. It seems to modify the substitute so as to provide that:

> Under such plan the people residing in the less populous geographic areas or political subdivisions——

Mr. BOGGS. I apologize for interrupting, but it is impossible to hear my distinguished colleague.

The PRESIDING OFFICER. Who yields time?

Mr. DIRKSEN. If I am in control of the time, I shall be glad to yield.

The PRESIDING OFFICER. The senior Senator from Illinois [Mr. DOUGLAS] has control of the time in opposition.

Mr. DOUGLAS. Mr. President, who has control of the time opposing the amendment?

The PRESIDING OFFICER. Under the agreement, the senior Senator from Illinois has control of the time in opposition.

Mr. DOUGLAS. I yield such time as the junior Senator from Illinois may require.

Mr. DIRKSEN. Mr. President, my comment shall be brief. I could not accept the language. The language is rather vague. It inserts a proviso in the language already in the substitute. It provides:

> That under such plan the people residing in the less populous geographic areas or political subdivisions of the State shall in no case have less representation in either house than they would have under a plan based upon substantial equality of individual votes.

There is no specific guideline as to what constitutes a less populous area or a more populous area, either on a geographic basis or a political subdivision basis. Frankly, the administration of a proposal like this would be difficult indeed.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. ERVIN. In North Carolina we have 100 counties. Ninety-nine of them are less populous than the 100th county. I ask the Senator from Illinois if the amendment of the Senator from Delaware would not nullify the whole amendment, for all intents and purposes, because it would provide that 99 counties of North Carolina would have to be given the same representation under the one-man, one-vote system.

Mr. DIRKSEN. I am sure that is so, and a comparable situation would exist in practically every State, including my own.

I trust, therefore, that the amendment will be rejected.

Mr. BOGGS. Mr. President, I yield back my time on the amendment.

Mr DOUGLAS. I yield back my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware [Mr. BOGGS] to the Dirksen substitute.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Illinois [Mr. DIRKSEN], as amended.

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. DOUGLAS. What is the question before the Senate?

The PRESIDING OFFICER. The question is on the substitute amendment of the Senator from Illinois, as amended, to the joint resolution.

Mr. DOUGLAS. As modified.

The PRESIDING OFFICER. As modified.

Mr. DOUGLAS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana (when his name was called). Mr. President, on this vote I have a pair with the Senator from Minnesota [Mr. MCCARTHY]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. LONG of Louisiana. I announce that the Senator from Minnesota [Mr. McCARTHY] is necessarily absent and his pair was previously announced.

The result was announced—yeas 59, nays 39, as follows:

[No. 203 Leg.]

YEAS—59

Aiken	Fulbright	Murphy
Allott	Gruening	Pearson
Bartlett	Harris	Prouty
Bennett	Hayden	Robertson
Bible	Hickenlooper	Russell, S.C.
Byrd, Va.	Hill	Russell, Ga.
Byrd, W. Va.	Holland	Saltonstall
Cannon	Hruska	Scott
Carlson	Jordan, N.C.	Simpson
Church	Jordan, Idaho	Smathers
Cooper	Kuchel	Smith
Cotton	Lausche	Sparkman
Curtis	Mansfield	Stennis
Dirksen	McClellan	Symington
Dominick	Metcalf	Talmadge
Eastland	Miller	Thurmond
Ellender	Monroney	Tower
Ervin	Morton	Williams, Del.
Fannin	Moss	Young, N. Dak.
Fong	Mundt	

NAYS—39

Anderson	Inouye	Morse
Bass	Jackson	Muskie
Bayh	Javits	Nelson
Boggs	Kennedy, Mass.	Neuberger
Brewster	Kennedy, N.Y.	Pastore
Burdick	Long, Mo.	Pell
Case	Magnuson	Proxmire
Clark	McGee	Randolph
Dodd	McGovern	Ribicoff
Douglas	McIntyre	Tydings
Gore	McNamara	Williams, N.J.
Hart	Mondale	Yarborough
Hartke	Montoya	Young, Ohio

NOT VOTING—2

Long, La.	McCarthy

So Mr. DIRKSEN's amendment, as modified, was agreed to.

The VICE PRESIDENT. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. The question is, Shall the joint resolution, as amended, pass?

Mr. PROUTY. Mr. President, do I correctly understand that the Senate is no longer under a time limitation?

The VICE PRESIDENT. The Senator is correct.

Mr. DOUGLAS. Mr. President, I ask for the yeas and nays on passage of the joint resolution.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, I seek recognition.

The VICE PRESIDENT. The Senator from Vermont is recognized.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. YARBOROUGH. How much time is being allotted?

The VICE PRESIDENT. There is no time limitation in effect.

Mr. MANSFIELD. Mr. President, will the Senator from Vermont agree to a time limitation, so that Members of the Senate may govern themselves accordingly? He could take a full hour or more. Can he give any indication of how long he will take?

Mr. PROUTY. I have no objection to a unanimous consent agreement being made after I finish my speech. I shall probably take between 45 minutes and an hour.

Mr. MANSFIELD. The Senator could take an hour, and perhaps an additional half hour. Senators could govern themselves accordingly, if he were agreeable to such a suggestion. Members of the Senate could govern themselves accordingly insofar as their engagements and other matters they must attend to with their constituents are concerned.

Mr. PROUTY. I should like to accommodate the majority leader——

Mr. MANSFIELD. Not the majority leader. I am thinking of the Senate.

Mr. PROUTY. It will not take me more than an hour, probably considerably less than that.

Mr. HOLLAND. Mr. President, the Senate is not in order.

The VICE PRESIDENT. The Senator from Florida is correct. The Senate will be in order. Senators will please cease conversation or retire to the cloakrooms.

Mr. PROUTY. Mr. President, in March of 1962, the U.S. Supreme Court in *Baker* v. *Carr*, 369 U.S. 186, held that a challenge to the apportionment of representation in a State legislature put forward a justiciable question under the equal protection clause of the U.S. Constitution over which the Federal courts have jurisdiction.

Two years later in *Reynolds* v. *Sims*, 377 U.S. 533, and in other cases, the Supreme Court held that the equal protection clause required both houses of a State legislature to be apportioned on the basis of population.

Prior to these decisions the Court had almost consistently refused to hear apportionment cases on the ground that these suits involved purely political questions and presented an issue inappropriate for judicial determination.

Mr. Justice Frankfurter, dissenting in the Baker against Carr case, attacked the foundation of the Court's decision when he said:

> The notion that representation proportioned to the geographic spread of population is so universally accepted as a necessary element of equality between man and man that it must be taken to be the standard of a political equality preserved by the 14th amendment—that it is, in appellants' words "the basic principle of representative government"—is, to put it bluntly, not true.

Justice Frankfurter continued:

> However desirable and however desired by some among the great political thinkers and framers of our Government, it has never been generally practiced, today or in the past. It was not the English system, it was not the colonial system, it was not the system chosen for the National Government by the Constitution, it was not the system exclusively or even predominantly practiced by the States at the time of adoption of the 14th amendment, it is not predominantly practiced by the States today. Unless judges, the Judges of this Court, are to make their private views of political wisdom the measure of the Constitution—views which in all honesty cannot but give the appearance, if not reflect the reality, of involvement with the business of partisan politics so inescapably a part of apportionment controversies—the 14th amendment, "itself a historical product" provides no guide for judicial oversight of the representation problem.

In deciding that each house of a State legislature must be apportioned on a population basis, the Supreme Court totally ignored the legislative history of the 14th amendment—the concept of that amendment held by the Members of Congress and State legislatures which promoted its adoption and the political practices of the State from the beginning of the Federal Union.

Of the 23 loyal States which ratified the 14th amendment prior to 1870, 15 had State legislatures apportioned on a basis other than population. No one has yet been bold enough to suggest that the State legislatures who participated in ratification had a desire or intent to invalidate their own legislative bodies.

Six of the ten Southern States which were required to ratify the 14th amendment as a condition to their readmission to the Union had legislative systems far different from those now made mandatory by the Court.

In fact, the Supreme Court could point to no single statement in the entire legislative history of the 14th amendment which supported its invasion of States rights and its overturning of the discretion of the people of those States.

The Court's shocking assault upon the foundation of our Federal-State relationship calls to mind the warning given to the American people by President Abraham Lincoln in his first inaugural address. Lincoln said:

> The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by the wide decisions of the Supreme Court * * * the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal.

Lincoln was right. When vital decisions are made by a judicial tribunal without regard to the rights and wishes of the States and the people generally, there is a passing of power into the hands of a few, and we live under a judicial oligarchy.

The Constitution of the United States is a document that may be amended by the action of Congress and the legislatures of the several States. If it has deficiencies—if it needs improvement—the amendment process is the clearest and surest way of political reform.

In the reapportionment cases, the Supreme Court has done more than interpret the Constitution. It has amended it. This was brought clearly to light by the views of Mr. Justice Harlan who said:

> The vitality of our political system, on which in the last analysis all else depends, is weakened by reliance on the judiciary for political reform.

Justice Harlan also said:

> When, in the name of political interpretation, the court adds something to the Constitution that was deliberately excluded from it, the Court in reality substitutes its view of what should be so for the amendment process.

For more than a century and a half, it has been the right of each State or the people of that State to decide under which political system they shall operate.

Operating under this right or principle, the State of Colorado reapportioned and restructured its legislature. One house was established on the equal representation or one-man, one-vote theory. The legislature left up to the people of Colorado the determination as to what system should prevail in the other House.

In a referendum the people of Colorado decided to adopt a system which took into account factors other than population. Yet the Supreme Court of the United States cast aside the will of the people and substituted its own set of standards.

Mr. Justice Stewart, who dissented in the Colorado case, exposed for all time this shocking challenge to the precedents and practices of a free society when he said:

> What the Court has done is to convert a particular political philosophy into a constitutional rule, binding upon each of the 50 States without regard and without respect for the many individualized and differentiated characteristics of each State, characteristics stemming from each State's distinct history, geography, distribution of population, and political heritage. Even if it were thought that the rule announced by the Court is, as a matter of political theory, the most desirable general rule which can be devised as a basis for the makeup of the representative assembly of a typical State, I could not join in the fabrication of a constitutional mandate which imports and forever freezes one theory of political thought into our Constitution, and forever denies to every State any opportunity for enlightened and progressive innovation in the design of its democratic institutions, so as to accommodate within a system of representative government the interests and aspirations of diverse groups of people, without subjecting any group or class to absolute domination by a geographically concentrated or highly organized majority.

That the Supreme Court has brought about a political revolution in this country cannot be gainsaid.

As of March of this year, all States but Oregon and South Carolina have been involved in reapportionment matters. Forty-four States have been parties in Federal and State court suits. Four of these States were reapportioned by the courts, while 22 others are under order to reapportion one or both houses of their legislatures.

It is small wonder that several legislatures have petitioned Congress to call a convention to propose an amendment to the Constitution to allow States to apportion one house of a bicameral legislature on factors other than population.

Those who feel that the Constitution should be amended only by the processes described in that document believe that in Reynolds against Sims the Highest Court attempted to insert in our fundamental charter its own notions with respect to political representation.

These observers—and I count myself as one of them—recall with amusement—and, yes, sadness—the vast change that has come over the views of Chief Justice Earl Warren since he became insulated from everyday political life. While Governor of California, Warren said:

> Many California counties are far more important in the life of the State than their population bears to the entire population of the State. It is for this reason that I have never been in favor of restricting the representation in the senate to a strictly population basis.
>
> It is for the same reason that the Founding Fathers of our country gave balanced representation to the States of the Union—equal representation in one house and proportionate representation based on population in the other.
>
> Moves have been made to upset the balanced representation in our State, even though it has served us well and is strictly in accord with American tradition and the pattern of our National Government.
>
> There was a time when California was completely dominated by boss rule. The liberal election laws and legislative reapportionment of the system have liberated us from such domination. Any weakening of the laws would invite a return to boss rule which we are now happily rid of.
>
> Our State has made almost unbelievable progress under our present system of legislative representation. I believe we should keep it.

There are many of us in this Chamber who believe that our States have made remarkable progress under legislative systems devised by our people and their elected representatives.

Earl Warren was right in 1948 when he favored an apportionment which reflected the will and aspirations of the peoples of California. He and his colleagues who joined him in Reynolds against Sims are wrong now in attempting to impose on California and all other States a legislative scheme which comports with their own political ideology—an imposition or intrusion that finds no support in the Constitution itself or in the statements of the authors of the 14th amendment.

The equal protection clause of the American Constitution did not cover legislative apportionments in 1904, in 1924, or 1944. Yet, the Court held that it did in 1964.

The political bosses in the larger cities are ecstatic with joy. The judicial lever has opened the door for their political combines, and there is virtually no limit to a possible expansion of boss power.

It is interesting to note, Mr. President, that those who warmly endorse the actions of the Supreme Court would be the first to complain if the Court's concept of equity and justice were to be transported and applied to the General Assembly of the United Nations.

In that Assembly at the U.N., 176,000 people from Iceland have as many votes as nearly a half a billion people from the nation of India.

As one writer said, if delegates to the U.N. were appointed solely by population, India would have 2,489 delegates to Iceland's 1.

Do any of these advocates of the one-man, one-vote rule suggest that Egypt should be allowed to outvote Israel at the rate of 12 to 1? No, on this question the one-man, one-vote crowd is curiously silent.

Those who want the Supreme Court to prescribe the makeup of our State legislatures tell moving tales about how the big cities are neglected by rural legislators. They ignore the fact that in study after study, political scientists have concluded that when cities fail to get what they want, it is generally the result of squabbling between city Republicans and city Democrats.

Prof. David Derge, of Indiana University, did an analysis of every rollcall vote in the Illinois Legislature between 1948 and 1959. He concluded:

> The city's bitterest opponents in the legislature are political enemies from within its own walls, and those camped in the adjoining suburban areas.

Dr. Murray Clark Havens, formerly of the University of Alabama, reports:

> In the case of rural splits, which were frequent, urban representatives, fairly well united themselves, found it relatively easy to employ the ancient political device of the balance of power.

After studying the actions of the Missouri Legislature, George D. Young, of Missouri, concluded:

> In the house, the difficulty in passing city legislation does not come from rural members but from members of the city's own delegation.

Indeed, he went on to say:

> It is almost invariably true that if the city's delegation is united upon a measure, it will be accepted by the entire general assembly.

Noel Perrin, writing in the Yale Review in the fall of 1962, brought to light the fact that in Connecticut half a dozen country villages have been wiped out for the sake of one city's water supply. One of the villages, he said, was 170 years old, in good shape physically and financially, and not a bit anxious to die.

Examples of this type will multiply if the people in each State are not permitted to devise the composition of their legislature.

In the State of Pennsylvania, the Constitution of 1776 called for representation by cities and counties and since 1790 factors other than population have been required.

The constitutional mandates contained in the Pennsylvania constitution were adopted in a referendum of all the people. At least five times since 1891 there have been proposals submitted to the people to call a convention to revise the Pennsylvania constitution, and five times the people have rejected these proposals, thereby indicating their satisfaction with the language in that constitution or their feeling that change was not imperative.

In *Butcher* v. *Bloom*, 415 Pa. 438, Mr. Chief Justice Bell made a wise observation when he stated:

> A rule which completely disregards and discards history, tradition, geography, local interests, and local problems, differences in dialects and language, in customs, in ideas and ideals in each State and also in many parts of each State; which will almost inevitably deprive minority groups of a fair and effective representation in legislative halls of their principles, customs, traditions, their particular problems and desired solutions, and the preservation of their cherished way of life; which will insure that their interests will not only be diluted, but will be in practical effect, frequently ignored;

which is so far removed and so different from what the people in each State of the United States have believed in and cherished and on which they have for a century or more based their government and their way of life; ought not to be allowed to stand.

Mr. President, let a word be said about the importance of the proximity of the State legislator to the people he represents.

In Vermont, prior to the Supreme Court decision, each community was entitled to one representative in the State's lower house. A person with a legislative problem could walk a few blocks and talk it over with his town representative. This easy identification of the citizen with his legislator must, under court order, become a thing of the past. What Vermonters think is good government must give way to the notion of men in judicial robes, many of whom have never been in our State.

I am not prepared to accept this judicial revolution supinely, and I cosponsor and strongly support the Dirksen amendment which would restore to the voter a voice in the apportionment of his State legislature.

Those who oppose the Dirksen proposal have led many persons to believe that if it were made a part of the Constitution, each State will have one of its legislative houses based upon factors other than population. Yet, Mr. President, the Dirksen amendment gives the citizens of each State a free choice. If they so desire, they may structure both houses of their legislature on a population basis, or if they so choose, they may apportion one house using population, geography, or political subdivisions.

In other words, Mr. President, it is entirely possible that every State may have a legislature whose composition is based on population, even if the Dirksen amendment becomes a part of the Constitution.

What do opponents of the amendment have to fear? Are they afraid that the voters will repudiate the notions of the Supreme Court? Are they afraid that the voters may have some ideas of their own as to what constitutes good government? Are they afraid that the city political bosses, made secure by Supreme Court decisions, will see their thrones trembling when the people speak?

We do not know what the ultimate tally will be on the Dirksen amendment, but we are sure of at least this: That well over half—and, the earlier vote indicated, nearly two-thirds of the Senators will support it. We know, too, that a high percentage of our State legislatures recommend its adoption. And we know also that people from every walk of life—farmers, factory workers, housewives—are asking that their voices be heard and we should not ignore their pleas.

Still, Mr. President, even if the Dirksen amendment should lose on final passage by a margin just short of the two-thirds requirement, there may be other means available to protect the voter's right to choose his own form of government.

If the research I am doing in depth bears out what I think it will, I may offer a new proposal for consideration by the Congress if the Dirksen amendment fails today or should fail of passage when offered at another time.

I feel that in the full and proper exercise of its power under the Constitution, the Congress might well succeed in obtaining the objective of the Dirksen amendment through passage of a joint resolution by a simple majority vote.

One may ask, How can this be so? Subject to modification based on later research, this would be my answer.

The opening words of article IV, section 4 of the Constitution are:

> The United States shall guarantee to every State in this Union a republican form of government.

The enforcement of this provision is of a political character—exclusively committed to Congress—and as such is beyond the jurisdiction of the courts.

Should the Congress decide that a distinguishing feature of a republican form of government is the right of the people or their elected representatives to devise what shall constitute the proper apportionment of their State legislatures, why, then, it may declare unrepublican those State governments whose legislative arm was shaped under judicial coercion.

In No. 32 of the Federalist Papers, Madison declares that it is essential to a republican form of government that it be derived from the great body of the society, not from an inconsiderable portion or a favored class of it.

Can it be truly said, Mr. President, that a State legislature is derived from the great body of citizens within that State if its shape, its composition, its numbers are determined not by the people themselves nor by their elected representatives? Nothing could be more unrepublican.

The opening words of the guarantee clause are "The United States shall." This is the only instance in the Constitution where the Government by its corporate name is given a duty, and in *Texas* v. *White*, 7 Wallace 730, the U.S. Supreme Court said the power to carry into effect the clause of guarantee is primarily a legislative power, and resides in Congress.

In the words, "The United States shall guarantee to every State in this Union a republican form of government," what is meant by the term "State"?

In Texas against White, the Court said:

> The primary conception is that of a people or community. The people [whether dwelling in a particular physical area,] * * * and whether organized under a regular government * * * constitute the State.
>
> This is undoubtedly the fundamental idea upon which the republican institutions of our country are established.

So, Mr. President, when the Constitution says that the United States shall guarantee to each State a republican form of government, it means that the United States shall guarantee to the people of each State a republican form of government.

The authors of the 14th amendment were very much aware of the great power which resides in Congress by reason of the guarantee clause. Indeed, Senator Sumner said:

> It is a clause which is like a sleeping giant in the Constitution, never until this recent war awakened, but now it comes forward with a giant's power.

Anyone who would seriously contend that the 14th amendment places a limitation on the power of Congress under the guarantee clause distorts history and ignores the intentions of the framers of the 14th amendment.

Indeed, when the Committee on Reconstruction reported out the 14th amendment, it stressed its strong reliance on article IV as that source of power under which Congress could reconstruct the Southern States and deal with the rights of the people in these States.

The majority report of the committee maintained that it was for Congress, not the President, to establish the relationship of the Southern State governments to the Union.

When we speak of the United States guaranteeing to each State a republican form of government, it is necessary for us to inquire what is meant by the term "guarantee."

In the dictionaries being used at the time of our Constitutional Convention, "to guarantee" is defined as "to undertake to secure the performance of any articles."

The words "to secure" are defined as "to make certain, to make safe, to protect, to put out of hazard."

The clause may, therefore, be restated as "The United States shall undertake to make certain, make safe, protect, put out of hazard republican forms of government in each State."

There is no question about the fact that under the guarantee clause, Congress can protect as well as restore republican government, and its role is not to be a motionless observer while a State is forced to operate under a political system not chosen by its people or their elected representatives.

It matters not who destroys the sovereignty of a State or impedes the sovereignty of the people—it matters not what form of tyranny makes a State unrepublican in character. In any and all efforts the Congress may intrude and insert its will.

The makeup of a State legislative body involves a political question, and the role of the Supreme Court should be limited to the enforcement of State statutory or State constitutional law.

As Mr. Justice Woodbury said many years ago:

> If the people, in the distribution of powers under the Constitution, should ever think of making judges supreme arbiters in political controversies, when not selected by nor, frequently, amenable to them, nor at liberty to follow such various considerations in their judgments as belong to mere political questions, they will dethrone themselves and lose one of their own invaluable birthrights; building up in this way—slowly, but surely—a new sovereign power in the Republic, in most respects irresponsible and unchangeable for life, and one more dangerous, in theory at least, than the worst elective oligarchy in the worst of times.

In closing, Mr. President, I would express again my strong support for the amendment offered by the distinguished minority leader. It contains the best of all possible solutions to the reapportionment problem.

Should it pass—and I certainly hope it will—then I hope the House of Representatives will give its provisions resounding approval.

Should the Senate, through unwisdom, reject it by a close margin, I hope the distinguished junior Senator will offer it again to give those in error a chance to be on the side of the people.

The able minority leader has given his pledge that he will offer his constitutional amendment time and time again if necessary, and if by chance such course should be essential, he may count on my voice, my vote, and my devotion to his cause.

His plea is simple. It is simply this: Let the people speak.

There can be no other choice in a truly free society.

Mr. SYMINGTON. Mr. President, I support the modified Dirksen amendment because I believe the people of the States should have the right to decide how they will be represented in their State legislatures.

Under the amendment, the people are to be given the choice at the voting booth between two plans, one based on population, geography, and political subdivisions, the other on substantial equality of population.

The factors on which a nonexclusive population plan could be based are strictly limited to geography or political subdivisions, thereby ruling out other factors.

The measure provides that this right of the people to decide would be a continuing one, in that after every decennial census, they would choose a plan for the future.

At any time the voters defeated a geographical plan, both houses of a bicameral legislature or the one house in a unicameral system would have to be apportioned on a population basis.

The amendment does not restrict the power of the Federal courts to provide judicial relief if a legislature were not apportioned in accordance with a plan adopted by the people. If a State did not utilize the provisions of the proposed amendment, both houses would be apportioned by population. If they were not, a citizen would be entitled to a judicial remedy. In all circumstances, judicial relief would be afforded whenever one house of a bicameral legislature was not apportioned on the basis of population.

It is the essence of our democratic system that the people are the authority for the government.

The amendment would permit—not require but permit—the people to decide the basis of their representation. I believe the people should have that right and therefore shall vote for the modified Dirksen amendment.

Mr. HARRIS. Mr. President, as a member of the Oklahoma State Senate and as a citizen of Oklahoma, I supported reapportionment under Oklahoma's constitution. However, once the Federal court had issued its order for reapportioning the Oklahoma Legislature under the rule established by the U.S. Constitution, because I respected my oath to uphold the United States and Oklahoma constitutions, I joined in coauthoring a bill in the 1963 Oklahoma Legislature to apportion that body in accordance with the Federal court decree.

Thereafter, the people of Oklahoma, during the same primary elections in which I was nominated for the U.S. Senate, adopted State question No. 416, providing reapportionment of the Oklahoma Legislature on a formula different from that established by the Federal court decree. The Federal court then invalidated State question No. 416.

Thereafter, in a widely publicized statement before the Oklahoma Municipal League in Tulsa, during the last general election, I stated that I felt morally committed by reason of the vote of the people of Oklahoma on State question No. 416 to support some measure along the lines proposed by Senator EVERETT DIRKSEN, of Illinois. My Republican opponent in that campaign made a similar statement at the same time.

Since that time and since my election to the U.S. Senate, the newly reapportioned Oklahoma Legislature, apportioned according to the Federal court decree, passed a resolution memorializing Congress to start procedures for amending the U.S. Constitution to allow each State to determine how its legislature should be apportioned.

The amended Dirksen resolution, which would refer to the States the question of amending the U.S. Constitution to allow the people of each State to decide how its legislature should be apportioned and providing for a periodic review by the vote of the people of each State, is in line with my commitment to the people of Oklahoma. I, therefore, intend to vote for it.

Also weighing heavily in my mind is the fact that some 29 States have memorialized Congress to call a constitutional convention for this purpose, which I think would be a far more unwieldy procedure than that proposed in the Dirksen resolution, particularly in view of the fact that such a constitutional convention apparently would not be limited to considering that proposition alone.

Mr. BURDICK. Mr. President, the Supreme Court decisions which began with Baker against Carr have done much to correct stubborn abuses in State apportionment. But they have done more than just that. They have also helped to rejuvenate State government.

During the past 30 or more years, as problems of an ever-changing society have become ever more complex, State governments were bypassed, overlooked, ignored, and just plain forgotten. Much of the reason for this affront to the States is the fault of the States themselves. They simply were not equipped to grapple with the enormous and growing problems of education, welfare, transportation, and air and water pollution—which are vexing problems for North Dakota as much as problems for California or New York.

The farflung wave of reapportionment reform set in motion by Baker against Carr, Gray against Sanders, Wesberry against Sanders, Reynolds against Sims, and subsequent reapportionment cases demonstrated an encouraging quality both of restraint by the Court and compliance by most States. Certainly not every State has overnight complied to the Court's complete satisfaction.

Many cases are still in dispute, including North Dakota. But in the overwhelming number of cases, the wheels of genuine reapportionment have been set in motion. It is almost as if the various States were waiting for an objective third person to rule on abuses which had grown more perplexing and harder to resolve with each passing year.

If Congress now tampers with the delicate question of reapportionment, by adopting Senate Joint Resolution 2 or any of its cousins, the whole impulse for reform will be thrown out of gear. It will do great harm to this and future generations.

As the Christian Science Monitor in a roundup of reapportionment cases by States commented on July 13, 1965:

> The States are putting their legislative houses in order.
>
> Perhaps at no time in American history has there been such widespread activity in the realinement of the districts from which State legislators are elected.

In summarizing, the Monitor notes:

> All but six States—Alaska, Maine, North Carolina, Oregon, South Carolina, and South Dakota—have been involved in one or more lawsuits over legislative apportionment * * *. With reapportionment court orders ringing in their ears, cautious State lawmakers have had little choice but to do the job many have dreaded for decades.

Obviously this has not been easy. Indeed, it has not been accomplished without some pain and suffering inside the various States. Many members of State legislatures have found themselves voting for apportionment schemes which promised to eliminate their own political careers. Yet it has been done and is being done, not only because of the Supreme Court's ruling, but because the States knew they had erred and the Court had merely prodded them into activity. If Congress now injects new concepts completely foreign to the long tradition of equal representation, our whole Nation will suffer irreparable harm.

OURS IS A NATIONAL GOVERNMENT—STATES WILL FLOURISH WITH FAIR APPORTIONMENT

It may come as some surprise for my colleagues in the Senate to realize that apportionment is a live topic in a sparsely populated State like North Dakota, as much as it is in Maryland, Michigan, Illinois, Georgia, or New York. A pending law suit filed by several eminent North Dakota citizens is designed to end some of the inequities in our present system of apportionment. The Reynolds against Sims decision has hastened the drive for fair apportionment in North Dakota as well as other States. The ap-

proval of Senate Joint Resolution 2 or any other dilution or renunciation of the Reyonlds standard would, in effect, throw the seats of our State legislatures into a pile and encourage interest groups to scrabble for as many as they can get their hands on.

It is my conviction that State government can best flourish when it is responsive to the needs of all its people. While no one contends that districts can be drawn with "mathematical exactitude," as the Supreme Court phrased it, certainly no one would seriously contend to a citizen of the 9th Senatorial District in North Dakota that his vote should be worth half again as much as one in the 36th District. Should a resident of Oliver County be given a skimpier ballot than a voter in Ward County? I think not. The citizens of both counties have an equal stake in good State government. The sheepherder of Hettinger County has the same basic interest in good government as the shoemaker of Cass County. Why weigh their votes on a different scale?

The Constitutional Revision Subcommittee of the North Dakota Legislative Research Committee wrote some guidelines for apportionment which are worth repeating:

> The extreme deviation between the highest and lowest legislative district should not exceed 10 percent over or under the desired population factor, and, if possible, a closer relationship should be obtained.

A sober and fair yardstick. Are we to throw this kind of calm and reasoned counsel to the winds? I fear we shall do just that if Senate Joint Resolution 2 is adopted, where all guidelines of fairness are made fuzzy and a frenzy of backscratching and logrolling is encouraged and tolerated. Judicial restraint and guidance will go down the drain, as we tell the State legislatures—Do what you want, forget about reasonable standards, the fenceposts count as much as people.

There are many States righters who favor the Dirksen rotten-borough amendment. I respect them, although I disagree with them. But I ask them if they know what they are doing to the States. If we approve this slap at the Supreme Court, and in the face of Reynolds against Sims, this is precisely what it is, then what are we doing to State government?

Mr. Allen Otten of the Wall Street Journal reported only a few days ago from the Governors' conference in Minneapolis that the States no longer have an inferiority complex. They are beginning to come to grips with the monumental problems of education. Why? Certainly one reason is reapportionment—not just of congressional districts, but of the State legislatures, too:

> Legislative reapportionment, ordered by the Supreme Court, is producing legislatures more representative of the cities and suburbs and more willing to come to grips with the pressing problems of expanding metropolitan areas—

Writes Mr. Otten, a most astute political reporter on the national scene—

> it also is focusing attention on the whole problem of absolescent State government. In close to two dozen States, constitutional revision conventions or commissions are on the way or already at work. These often are set up mainly to reapportion the State legislature, but most branch out to streamline archaic constitutions and bolster the legislative and executive branches.

Are we now going to discourage this wave of reform which is sweeping the States by saying to one house of the State legislature, you can reapportion just about any way you please and the Supreme Court cannot touch you? I hope not. For the sake of good State government, able to struggle successfully with the problems of the jet age, let us not foist the machinery of the horse and buggy on the States.

NORTH DAKOTA FARMERS RELY ON GOODWILL OF CITY DWELLERS

It is self-evident that North Dakota agriculture is the predominant economic activity of my State. But North Dakota is by no means a predominantly rural State. Not many realize that more than one-third of North Dakota or 222,708 of its inhabitants are urban dwellers. Another 202,738 according to the 1960 census are rural nonfarm, and the remaining 207,000 are rural. There has been a steady urbanizing trend in North Dakota for the past 60 years. The rural sector has steadily diminished as the urban group has grown. In a State like ours, family relationships are very close regardless of where people live. Grandfather Nyberg may live in Minot. He has farmed all his life and is now classified in the census figures as a city dweller, while his sons are farmers. Does grandfather rate 25 or 15 percent less of a vote than his son because he moved to the city during his old age? I think not.

North Dakota farmers long ago accepted the fact that "farm prices are made in Washington." North Dakota farmers realize that without the votes of Senators and Congressmen from city and suburban areas they could not have a farm program which assures an ample supply of wheat in a hungry world and an adequate price for that wheat.

In this connection, I should also like to point out that in last year's passage of H.R. 6196, the wheat-cotton bill, on April 8 in the other body, it was the 64.7 percent "Yes" votes from big city congressmen which made the difference in the outcome and meant so much to the wheat farmers of North Dakota.

The following chart prepared by the Division of Legislative Services of the National Farmers Union illustrates my point.

I ask unanimous consent that it may be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Analysis of record vote by House of Representatives on wheat-cotton bill, H.R. 6196—Passed 211 to 203, Apr. 8, 1964

Type of congressional district	Democrats	Republicans	For H.R. 6196 [1]		Against H.R. 6196 [1]		Percent of total votes for	Percent of total votes against	Percent of Democrats for	Percent of Democrats against
			Democrats	Republicans	Democrats	Republicans				
Total	249	177	207	10	42	167	50.9	49.1	83.1	16.9
Big city	91	31	78	1	13	30	64.7	35.3	85.7	14.3
Midurban	23	35	18	1	5	34	32.8	67.2	78.3	21.7
Rural	135	111	111	8	24	103	48.4	51.6	82.2	17.8

[1] Negative (—) and positive (+) pairs are counted in total.

Mr. BURDICK. Mr. President, I mention this to emphasize that North Dakotans have for a long time appreciated their reliance on the city, as I hope the city people realize they depend on the hard work and efficiency of the North Dakota wheat farmer. There is no more precious world asset today than our abundant supply of wheat. Would that we would make more use of it than we do. Hunger stalks the face of much of the world, and our food is a stronger weapon in winning friendship for the United States than napalm, bombers, and marines.

STATES ARE BYPASSED BECAUSE THEY ARE NOT RESPONSIVE TO CITY PROBLEMS

The political science literature of the Library of Congress is filled with warnings that State government will decline unless it becomes more responsive to the felt needs of the cities and suburbs. President Dwight D. Eisenhower, certainly no advocate of big government, issued several warnings to the States, as did a former Governor of North Carolina, a devout States righter.

Said Mr. Eisenhower:

> Opposed though I am to needless Federal expansion, since 1953 I have found it necessary to urge Federal action in some areas traditionally reserved to the States. In each instance State inaction, or inadequate action, coupled with undeniable national need, has forced emergency Federal action.

Mr. Eisenhower said this in a speech to the dinner of the 1957 Governors' conference.

Former Gov. J. Melville Broughton, of North Carolina, has written:

> Those of us who believe in the fundamental principles of States rights and local self-government may as well concede frankly that much of the almost terrifying expansion of Federal encroachment upon the original

domain of the States has come about because State governments failed to meet the challenge of the new day. Inadequate educational opportunities, archaic labor laws and regulations, unrelieved hardships and inequities suffered by the working people, low-pitched politics and unjust class and race discriminations have, all too frequently, caused the people to lift their eyes beyond the horizon of State lines and call for relief from the Federal Government. ("The Future of the States," State Government, March 1943, pp. 55–56.)

IT IS EXPECTING TOO MUCH FOR STATE LEGISLATURES TO CHANGE WITHOUT OUTSIDE GUIDANCE

Why should the Supreme Court get into the middle of "this political thicket" as Justice Frankfurter warned? Why not? How else in our system of checks and balances can we better resolve this tangle which grows more tangled as our Nation changes, as people move, and new problems emerge?

Any substantial change in districts means that the members must face new constituents and deal with uncertainties—in short, undergo risks that few politicians would voluntarily put upon themselves. Voting for a fair apportionment bill would, in many cases, mean voting oneself out of office. That is too much to ask of most politicians. The result is that the State legislatures do not reapportion fairly or, more commonly, do not reapportion at all. Some recent examples of the performance of State legislatures on apportionment problems indicate how futile it is to remit the disenfranchised for relief to the body which has failed to enfranchise them.

So writes Anthony Lewis, prophetically, 4 years before Baker against Carr in an article calling for the Supreme Court to take apportionment case jurisdiction in a Harvard Law Review article "Legislative Apportionment and the Federal Court."

REFERENDUM AND INITIATIVE NOT INTENDED FOR FUNDAMENTAL CONSTITUTIONAL CHANGE

North Dakota has a long and proud history providing for initiative and referendums, but this was never intended to decide so fundamental a question as the right to have a full and equal vote. The history of referendums, not only in North Dakota but in other States as well, indicates that questions highly technical in their wording, obscure in their meaning are not easily grasped by the people during a few minutes in a voting booth.

In almost every case I can think of there is a disturbing dropoff in vote between the votes cast for candidates for public office and the votes cast for referendums, questions. Thus, how can you guarantee that bedrock constitutional questions will be fully grasped, if there is a wide dropoff in vote?

This question was admirably explained during the hearings by Representative ANDREW JACOBS, of Indiana, a member of the Judiciary Committee of the other body and himself a former precinct committeeman familiar with interpretation of questions raised by voters. He had this to say in response to Senator HRUSKA:

Senator, I think anybody with the right qualifications who is elected by the people is fit and qualified to sit on legislative bodies. I would not consider myself prepared to vote on certain issues in this Congress before I came to this Congress and had the opportunity as a full-time job to study those issues. So I only think it is asking too much to say that every issue, no matter how technical, no matter how far-reaching, no matter how complicated, should be decided by referendum. (Hearings, S.J. Res. 2, pp. 704–705.)

In a further comment, Representative JACOBS added:

I give you my assurance that those two gentlemen (Johnson and Goldwater) did run in Indiana, so we shall take Indiana as an example and say with a highly emotionally charged election, way over at the end of the machine, a referendum vote, statistics and history clearly show a very small proportion of the citizenry actually getting that far over on a voting machine and vote. In many instances, they have not had the opportunity, and I emphasize, the opportunity to have been clearly informed or clearly study a proposal. I think it is possible—I think it is possible that in such an election, by sheer accident, the people of a State could permit themselves to be enslaved by taxation or without representation. (Hearings, S.J. Res. 2, p. 707.)

THE SUPREME COURT MOVED CAUTIOUSLY AND HAD EVERY RIGHT TO MOVE

The Supreme Court did not move into the knotty question of reapportionment recklessly or hastily. After it shied away from taking jurisdiction in Colegrove against Green, it waited, hoping possibly the States would move or that civic groups would take Justice Frankfurter's admonition and bestir themselves. But if these were the Court's hopes, they were to be sorely disappointed. Even the most ardent States righter admits that little or nothing either before or after Colegrove against Green was done to reapportion on a scale befitting a changing Nation.

So the Court moved, but it moved cautiously. In Baker against Carr the Court did not move in rashly and tell Tennessee precisely what it must do. It counseled and persuaded. And as matters began to move, the Court moved in deeper, but it has still left much of the initiative in the hands of the States themselves.

Mr. Anthony Lewis in his 1958 article before Baker against Carr said in "Legislative Apportionment and the Federal Court":

"If speech by a dissident minority is of sufficient importance to the political health of society to deserve special judicial protection, surely there is greater warrant for intervention by the courts when "the streams of legislation * * * become poisoned at the source." Of what use is the right of a minority—of a majority, as is often the case in malapportioned districts—to apply persuasion if the very machinery of government prevents political change?

Malapportionment is a disease incurable by legislative physic. (Lewis, Harvard Law Review, vol. 71, 1958, pp. 1096–1097.)

Later, Mr. Lewis observes:

The Federal courts cannot remake politics. But they can be a conscience, expressing ideas which take root in public and political opinion (ibid., p. 1098).

Mr. President, I suggest that this is precisely what the Supreme Court reapportionment decisions have meant—they have appealed to the public conscience. It would be a great tragedy, indeed a travesty, if we now undo the good which the Court has done, by allowing one house of our State legislatures to give votes to inanimate objects like stones, signposts, and silos instead of people.

RURAL PEOPLE NEED THE GUARANTEE OF ONE MAN, ONE VOTE, OR THEY COULD LOSE EVEN THAT

The one-man, one-vote principle which the Court has clearly enunciated, is not a blind, mathematical formula which has no give or take to it. Indeed not. The Court has merely said that "the rule of reason" shall be the yardstick in apportioning congressional and State legislative districts. Thus, there can be variations from State to State, or from district to district—but they must be reasonable.

Farm people have a vital stake in securing the principle of one man, one vote. Nobody questions the fact that a great shift in population from farm to city has occurred. It is more in some States than in others, but even in North Dakota, which depends on agriculture as its principal source of livelihood, the urban trend continues and there is nothing to stop it.

If farm people fiddle around with area voting they will perpetuate terrible abuses and further bring down the wrath of city dwellers. If we do not have fair standards of representation along the lines prescribed by the U.S. Supreme Court, it is wholly conceivable that the tables could be reversed, that the cities given enough time and given enough outrage will react in such a way that farm dwellers will be deprived of even their right to one man, one vote. That is why the rules laid down by the Supreme Court are both good for the sheepherder and good for the shoemaker.

CONGRESS SHOULD NOT LOCK INTO THE POLITICAL PROCESS A DECEPTIVE METHOD FOR ASSURING MINORITY CONTROL

On the surface, Senate Joint Resolution 2 looks like a fair proposition. Give the people the right to vote. But, Mr. President, I insist this is a deceptive proposal. There is nothing in our history which requires that the people should vote over and over on their fundamental right to full and equal representation, any more than they should be expected to vote on their right to free speech or free press. A full vote—even though it has been denied by malapportionment through the years—is still the right of every American. The Court has ruled that an honest count of a man's vote is his right, and the Court has ruled that a citizen's vote cannot be diluted by tricky arrangements, subject to the whim and pressures of a legislative body, which itself has too often been malapportioned. The rulings of the Court are being obeyed and complied with—this is the great and marvelous thing about the reapportionment rulings. There is scant undermining of the Court, as occurred in the school desegregation cases, unless it be permitted by Senate Joint Resolution 2.

The issue has been well stated by Prof. Royce Hanson of American University, in testimony before the subcommittee:

> But I must emphatically oppose any system that permits a majority found on a single day to prejudice by a single vote the power arrangement within which all subsequent decisions must be made, and by which every individual citizen must then abide.

No, Mr. President, Congress must not treat lightly the right of every American to a full and undiluted vote. This is no small matter which Congress or a fleeting majority in a State legislature has either right or reason to tamper with.

THERE IS NO SUCH THING AS BEING JUST A LITTLE BIT DISENFRANCHISED

Mr. President, the wisdom of the Supreme Court rulings on reapportionment grows as time goes on. In our North Dakota brief for fair apportionment, the plaintiffs say, quite correctly, "there is no such thing as being a little bit disenfranchised."

I have already pointed out how grandfathers who move from the farm to the city can in North Daokta have their votes whittled away by an apportionment scheme which is prejudicial against the inhabitants of Bismarck, Grand Forks, Fargo, Minot, or any other city of any size in North Dakota.

We are a mobile people. We move from county to county, from town to town, from city to city. Why should our vote be diluted each time we move The Supreme Court soundly reasons that in a mobile society the Founding Fathers and the authors of the Northwest Ordinance were right in establishing equal representation. There is no other rule which can better meet the test of fairness and reason.

Mr. THURMOND. Mr. President, I am opposed to the adoption of the conference report on S. 1564, on the same grounds that I opposed Senate adoption of the legislation in the first instance. The primary issue involved in the constitutional protection of the privilege of the ballot. This is a privilege which I am sure we all consider dear.

More particularly involved is the protection accorded that privilege by the 15th amendment to the Constitution. Since S. 1564 is predicated solely upon the 15th amendment, it becomes incumbent upon us to carefully examine the provisions of the amendment. It provides in section I that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." The second section of the amendment authorizes Congress "to enforce this article by appropriate legislation."

In my judgment, S. 1564 is not appropriate legislation, such as is contemplated by the second section of the 15th amendment.

In my judgment, S. 1564 is unconstitutional, because it is in direct conflict with other portions of the Constitution.

The pending bill would invalidate, among other things, the literacy tests of the Southern States. Literacy tests are one valid method by which a State can judge the qualifications of citizens who offer to vote. At the present time, more than 20 States, obviously including many States outside the South, have some form of a test which could, in more or less degree, be described as a literacy test.

The provisions of the Constitution which authorize a State to require the proof of literacy for voters are clear and unequivocal. Article I, section 2, of the Constitution states:

> Electors (for Members of the House of Representatives) in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

The 17th amendment, adopted more than 40 years after the 15th amendment, contains language identical to that found in article I, section 2, of the Constitution. In providing for the direct election of U.S. Senators, the Congress and the people of this country specifically reaffirmed the basic principle that it is the function of the States to establish qualifications for voters.

S. 1564 would override both of these provisions of the Constitution and substitute qualifications for voters established by the Federal Government.

The intervening adoption of the 15th amendment in no way invalidated the specific provisions of article I, section 2, of the Constitution and the 17th amendment. At a very early date, but subsequent to the adoption of the 15th amendment, the Supreme Court held that literacy tests which are drafted so as to apply alike to all applicants for the voting franchise would be deemed to be fair on their face, and in the absence of proof of discriminatory enforcement could not be viewed as denying the equal protection of the laws guaranteed by the 14th amendment. Therefore, it is implicit that neither would they violate the terms of the 15th amendment.

In 1959, Justice Douglas, speaking for the Court in the case of Lassiter against Northampton Election Board, said:

> No time need be spent on the question of the validity of the literacy test considered alone since we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted.

This decision upheld the literacy test of of the State of North Carolina against a charge of unconstitutionality on its face.

Even as recently as March 1 of this year, the Court, speaking through Justice Stewart, made the following observation concerning the constitutional right of the States to prescribe voter qualifications:

> There can be no doubt either of the historic function of the States to establish, on a nondiscriminatory basis, and in accordance with the Constitution, other qualifications for the exercise of the franchise. Indeed, the States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised. *Lassiter* v. *Northampton Election Board*, 360 U.S. 45.

In that case, the Court quoted with approval the following language taken from *Pope* v. *Williams*, 193 U.S. 621:

> In other words the privilege to vote in a State is within the jurisdiction of the State itself to be exercised as the State may direct, and upon such terms as it may deem proper.

Mr. President, it would be possible to continue giving citations and examples which prove beyond the shadow of doubt that a State has been both the constitutional right and responsibility to specify the qualifications for voters, both in State and Federal elections, including requiring voters to pass literacy tests if such literacy tests are not used as a cloak to discriminate against anyone on the basis of race, color, or previous condition of servitude. However, this should be sufficient authority to convince anyone of the basic constitutional right of the States to require literacy standards for voters. For this reason, I would like to turn now to the bill itself and attempt to point out some of the more obvious defects of the proposal.

The primary object of the bill is to outlaw the use of any "test or device" to determine the qualifications of voters in any State or political subdivision of a State if, first, less than 50 percent of the persons of voting age residing in the State were registered on November 1, 1964; or, second, less than 50 percent of such persons voted in the presidential election of November 1964.

The Attorney General is empowered to determine what standard required by a State will be considered a "test or device" for the purposes of the bill. Section 3(b) of the bill contains broad guidelines for the Attorney General, but it is clear that he is delegated unlimited power to brand any qualification a "test or device" and outlaw its further use. To illustrate, if an applicant is required to sign his name to the application blank, then obviously he is being required to demonstrate his ability to write. The Attorney General, under the terms of this bill, could determine that this is a prohibited test or device. Similarly, the prohibition against requiring an applicant to "demonstrate any educational achievement" forces me to the conclusion that title I, the voting rights section, of the Civil Rights Act of 1964 falls within the prohibition of this bill. As you are aware, that act states that proof of a sixth-grade education raises a rebuttable presumption of literacy. This is unquestionably a requirement of educational achievement which would fall within the proscriptions of the pending measure. In this unhappy circumstance, a State registration official would be placed in the unenviable position of violating one Federal law by enforcing another Federal law.

This bill is predicated upon the presumption that the terms of the 15th amendment have been violated merely by the existence of the fact that less than 50 percent of the voting-age residents of a State or political subdivision of a State were registered or voted at the time of the presidential election of 1964. This is a presumption which has no logical or

legal connection with the facts. It must be remembered that the 15th amendment prevents the United States or any State from denying or abridging the right of a citizen to vote solely on account of race, color, or previous condition of servitude. Any appropriate legislation designed to further effectuate the protection provided by this amendment must be predicated upon the denial of the right to vote for the specific reasons enumerated in the amendment.

The pending bill goes far beyond that. It would allow the registration of individuals who are not qualified to vote under any objective standard, regardless of race or color, in the guise of preventing discrimination solely because of race or color. If the presumption were valid, then the bill would apply and would have to be enforced in all political subdivisions which meet the statistical test. It is evident, however, that the Department of Justice has no intention of applying the terms of this bill to any section of the country outside of the South.

There is no question in my mind but that the premise of the bill fails to meet any objective standards which would be necessary to assure its constitutionality. In reality, the bill would not effect and override racial discrimination which exists in areas outside of the South. The bill would allow an illiterate to register and vote in the six Southern States and 34 counties of the other Southern State covered, but it would not allow the same illiterate to register and vote in any of the other States of the Union which require a literacy standard but do not fall statistically within the purview of this proposal.

To this extent, the bill establishes a double standard—one for the federalized States and another for the States which were fortunate enough to have over 50 percent of their voting age population registered and voting in November 1964. It is grossly unfair to the people of these six Southern States to have such rank discrimination imposed upon them.

The figures upon which all these conclusions have been based are subject to serious question. The Attorney General and other proponents of this bill primarily rely upon a tabulation of registration and statistics compiled and distributed by the Commission on Civil Rights. Needless to say, the figures contained in this compilation pertain to only 11 Southern States.

To illustrate my contention concerning the questionable nature of these figures, a large portion of the statistics for the State of South Carolina contained in this study by the Civil Rights Commission are attributed to an article from the November 1, 1964, edition of the Charleston News and Courier. By no means do I question the dedication and ability of the author of this article; but the fact remains that these are, at best, unvalidated and unofficial figures. This article estimates the total registration for the State of South Carolina as of November 1, 1964, to be 816,457. The figure given by the Civil Rights Commission is 816,458 registered voters, a deviation of only one voter. However, a newspaper article which appeared in the Greenville, S.C., News on March 16, 1965, states that the official total registration for the 1964 election in South Carolina was 772,748. This figure was attributed to the secretary of state of South Carolina, the Honorable O. Frank Thornton, whose office has jurisdiction over the official voting records in South Carolina. For that reason, I believe that the latter figure of 772,748 would be more reliable. This one example merely serves to point out the difficulty in obtaining accurate and meaningful statistics upon which to base any proposal, if this is indeed the proper way to proceed in this matter.

The total voting-age population of the State of South Carolina, according to the 1960 census, was 1,266,251. The total voting-age population of the State of South Carolina as of November 1, 1964, according to the estimates of the Bureau of the Census, was 1,380,000. I would like to remind the Members of the Senate that this figure is an approximation and is not an official tabulation. By using every possible combination of the four figures available, over 50 percent of the voting-age population of the State of South Carolina was registered at the time of the presidential election of 1964. If registration were the sole criterion contained in this bill, the State of South Carolina as a whole would not be covered. However, South Carolina is covered, simply because an unfortunately large percentage of those registered to vote chose not to vote in the presidential election of 1964. Last fall 524,748 registered voters cast their ballot in the presidential election. This is less than 50 percent of either the official voting-age population based on the 1960 census or the unofficial estimate by the Bureau of the Census of the voting-age population as of November 1, 1964.

Mr. President, there is no Federal law, and no State law that I know of, which requires qualified citizens to vote. Neither have I heard it suggested by any of the proponents of this legislation that such a law is desirable or is a necessary prerequisite to the full and free enjoyment of the freedom which is sought to be achieved through the enactment of the pending bill.

We all agree that it is one of the responsibilities of citizenship to vote in all elections and thereby contribute to representative government. Mr. President, I take a back seat to no one in attempting to get out the vote. Last fall, I traveled all over the State of South Carolina in an effort to get out the vote, and my efforts were not limited to the State of South Carolina.

I spoke to everyone who would come to hear me. I urged that they vote in the presidential election. I might add that I even suggested very strongly which candidate they should support. Even with all these efforts by me and many others, less than 50 percent of the voting-age population of South Carolina voted last November. Even so, the total vote far exceeded any previous vote ever cast in the State. Previous voting records were surpassed by at least 100,000 votes.

South Carolina has made and is continuing to make great strides in voter registration and participation, and yet no mention is made of this fact. One must be forced to the conclusion that freedom necessarily includes the right not to vote as well as the right to vote as each individual decides.

There are no valid charges of voting discrimination in South Carolina based on race, color, or previous condition of servitude. Even the Attorney General, in his statement to the Senate Judiciary Committee, stated that, "of the six Southern States in which tests and devices would be banned statewide by section 3(a), voting discrimination has unquestionably been widespread in all but South Carolina and Virginia." His attempt to justify the application of the bill to South Carolina on the basis that, "other forms of racial discrimination are suggestive of voting discrimination," does a great injustice to the State of South Carolina and is unworthy of any high ranking Federal official. This is guilt by association in its worst form.

The only constitutional method whereby the National Government could take over the voting processes of any State would be by constitutional amendment. This is the method which was followed in doing away with the poll tax as a prerequisite for voting in Federal elections. It is the only method which can be constitutionally taken to establish voter qualifications in any State.

LET THE PEOPLE DECIDE

Mr. CURTIS. Mr. President, a little over a year ago, on June 15, 1964, the Supreme Court of the United States rejected a great principle which has been one of the cornerstones of our democratic system of government. Specifically, the Court revoked the principle that all segments of the population of a State should be represented in the legislative body of the State which governs them.

On that June day to which I refer, the Court, in handing down decisions dealing with the reapportionment of the legislatures in six States, rejected the time-proven doctrine that all the people are entitled to equal protection. Thus, as the Constitution is now interpreted and unless the Dirksen amendment (S.J. Res. 2) is adopted, the people of the 50 States will be denied, or granted, representation merely on a population basis.

The Dirksen amendment is a simple measure. It merely gives effect to the first three words of our Federal Constitution. If those three words, "We, the people * * *," are to be given a meaning, the Dirksen amendment providing that the right and power to determine the composition of a State legislature shall remain with the people, must be adopted by this body. Why cannot the people of our States be trusted to determine their own destiny? Why cannot we recognize, here and now, the resolutions adopted by 28 State legislatures which have called for a constitutional convention for the purpose of amending

the Constitution so as to overcome the harshness, the injustice, and yes, the undemocratic features of the Supreme Court's reapportionment decisions? Why must "We, the people" be denied the right to apportion our own State legislatures by a judicial oligarchy of five men who made the basic reapportionment decision?

The Dirksen amendment is to simply provide the people with a means of apportioning one house of their State legislature on the basis of factors other than population if, and only if, that apportionment has been submitted to a vote of the people and approved by a majority of those voting. By not letting the people decide, by not passing the Dirksen amendment, we in the Senate will stand accused of supporting "judicial tyranny."

Colorado, Nebraska's good neighor to the west, has had its heartaches and headaches with the Supreme Court's decisions. Moreover, the people of Colorado have even had the Supreme Court deny them their rightful choice as to apportionment of their legislature. In 1962, the people of Colorado were given the right to choose by an election one of two methods by which their legislature could be apportioned. The first plan, the so-called Federal plan, had one house of the Colorado Legislature based on population only while the other house was to be based on geography plus population. The second plan provided for both houses of the Colorado Legislature to be based on population only. By a 2 to 1 majority, the people of Colorado chose the Federal plan over the one-man, one-vote plan. Yet the Supreme Court rejected the choice of the people of Colorado and insisted upon their own obscure and confusing dogma. It was nothing less than judicial tyranny when the plan approved by the good citizens of Colorado was obstructed.

In the Colorado case—*Lucas* v. *Forty-fourth General Assembly of Colorado*, 377 U.S. 713, 1964—Justice Stewart made what I consider to be a great and rational dissenting opinion from which I quote:

> To put the matter plainly, there is nothing in the history of all this Court's decisions which supports this constitutional rule. The Court's draconian pronouncement, which makes unconstitutional the legislatures of most of the 50 States, finds no support in the words of the Constitution, in any prior decision of this Court, or in the 175-year political history of our Federal Union.

It is clear that the Court's concept of equality is based on sheer numbers rather than on a plan of rational representation of all the various interests in a State. By these reapportionment decisions, the Court has done nothing more than to say, "might makes right." I hope the Senate will reject these "might makes right" decisions, adopt this amendment, and let "we, the people" determine how their legislatures are to be apportioned.

The good citizens and the legislature of my own State of Nebraska have been vexed by these reapportionment decisions. In 1962, the citizens of my State amended our constitution and by popular vote, selected a method of redistricting our legislature. The amendment to which I refer provided that:

> Primary emphasis shall be placed on population and not less than 20 percent nor more than 30 percent weight shall be given to area.

By adopting this amendment, the people of Nebraska clearly indicated their preference, yet the Federal courts have said "No" to the citizens of Nebraska.

The courts, through these reapportionment decisions, have substituted their wisdom for that of the people. Why cannot the people, not only in Nebraska, but in the other 49 States as well, be trusted to adopt fair and equitable apportionment of their legislatures? There is not a Member of this body who would be here today except for direct action by the people of his State.

If today we say the people are not to be trusted to select their own method of apportioning their legislatures, tomorrow we shall surely hear the cry that the people are not to be trusted to select their representatives to the U.S. Senate.

As U.S. Senators, it is and must always be our duty to insure all the citizens of all the States and all the various areas within those States fair and equitable representation. I am heartily in agreement with the contention of the sponsors of this amendment when they say that such representation cannot be brought about by cold computer totals that turn people into numbers and numbers only. To adopt such a philosophy and such an approach, in my opinion, is to cast aside that precedent that has been fundamental to our way of life. It is to depart from a system of representation that has made the rural areas of our States self-reliant and self-confident. I am utterly amazed when I hear the opponents of this proposed amendment claim that they are abiding by the best of civil liberties precepts when they tell us that the vast and widely scattered units of our economy are entitled to only such representation as they can win through bargaining with the political bosses of big cities. This is not the way things have been done in this country. It is not in keeping with the American philosophy and with the American understanding of fairness.

To me, this entire debate has resolved itself into the simple question of whether we, as Senators, are afraid to trust the voters who sent us to Washington—trust them, I mean, to make other decisions as to how they want to be represented. I, for one, am going to support a constitutional amendment that will permit such decisions to be made at the voter level. I urge support for the distinguished Senator from Illinois, the Honorable EVERETT DIRKSEN, in his splendid efforts to increase legislative responsibility and leadership at the State level.

FREEDOM ACADEMY LEGISLATION MOVES FORWARD

Mr. MUNDT. Mr. President, it is frequently difficult for a layman to speculate accurately about what activities of Congress or in Washington are likely to be considered newsworthy by the news-gathering people on Capitol Hill. A difference of opinion involving two officials of different political conviction may stir up columns of comment and reportorial material whereas a decision by a committee of Congress—unanimously arrived at—may be overlooked almost entirely by the press despite the fact its potentiality is so great it can conceivably change the course of human history.

A recent case in point is the unanimous vote by which the House Committee on Un-American Activities reported favorably to the House the so-called Freedom Academy bill. This significant action was virtually unreported by half the Nation's press; it was overlooked entirely by many of the commentators and reporters who purport to give the public a full and fair daily report on national developments over radio and television.

Even the wire services failed to catch its significance or to report its highly important ramifications. If passed by this session of Congress—as I hope will happen—the enactment of legislation to create a Freedom Academy for strengthening the capacity of America to win the cold war in which we are engaged by other than military might and sacrifice, in all probability can bring about a real turning point in the cold war. It is thus highly unfortunate so many Americans remain uninformed about this action because it was not considered exciting or important or controversial by such a large segment of the publicity media covering Washington.

However, facts will out. Slowly but surely Americans are learning about this significant development. For example, today's issue of the Washington Evening Star carries as its top column in the editorial section an interpretative piece written by James J. Kilpatrick entitled "Freedom Academy Plan Backed." It is an excellent résumé of what is involved in this important legislation. I urge those who read the CONGRESSIONAL RECORD to write their Congressman or Senators requesting a copy of the committee report issued by the House Committee on Un-American Activities on its favorable action on the Freedom Academy bill. It is informative, interesting, compelling and encouraging reading. It gives real hope that situations such as that in which are now engaged in Vietnam will not need to be repeated and that peace and freedom may well prevail in this world without war.

Mr. President, I ask unanimous consent that the Kilpatrick column may appear in the body of the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FREEDOM ACADEMY PLAN BACKED

(By James J. Kilpatrick)

The House Committee on Un-American Activities came up with a bill the other day that has been almost wholly ignored in the press. This is a pity, for the bill is a good bill, intended to fill a critical need, and it

ought not to be left to languish for want of public discussion.

The bill would create a new seven-man Freedom Commission, whose principal duty would be to establish and maintain a Freedom Academy. And the principal business of the Academy would be to teach courses and conduct research in "total political warfare" against the Communist foe.

Such a proposal is not new. The bill just reported by the House committee is patterned generally upon a measure actually approved in the Senate 5 years ago. Since then, a bipartisan coalition of liberals and conservatives in both Houses has kept the idea alive. Sponsors of the plan include such respected men as MUNDT, CASE, DODD, DOUGLAS, FONG, HICKENLOOPER, MILLER, PROUTY, PROXMIRE, SCOTT, and SMATHERS in the Senate; and ICHORD, HERLONG, GUBSER, BOGGS, GURNEY, CLAUSEN, ASHBROOK, BUCHANAN, and FEIGHAN in the House.

Some of these gentlemen may disagree on details, but they share a common conviction that the people of the United States—and more critically, the people in key posts in Government—know pitifully little about the nature of communism and the techniques of the Communist conspiracy around the world. By and large, we are babes in this wood. Trustful, innocent, gullible, eager to be loved, Americans by and large refuse to accept the relentless purposes of the Communist ideology. Conventional warfare we understand.

The proposed Freedom Academy would seek to fill this gap through teaching and research. It would maintain a library, publish papers, conduct seminars, cultivate public understanding; and it would draw its students not only from Government agencies, graduate schools, and college faculties here at home, but also from key institutions and governments throughout the free world.

Not surprisingly, the State Department is cold to the plan. In State's view, "the bill as a whole would not serve as a useful instrument of national policy." Granted that we must employ not only military strength but also all of the "political, psychological, economic, and other nonmilitary means at our disposal," the State Department "seriously questions whether comprehensive and realistic plans for dealing with the infinitely complex problems of U.S. foreign affairs can be developed by a new, separate Government agency, especially one without operational responsibilities." In brief, State would leave the job to State.

From a purely administrative viewpoint, the objection may have merit, but it founders in the blunt rebuttal that the State Department itself has failed abysmally to comprehend precisely this field of political warfare. If the State Department, through its Foreign Service Institute, had demonstrated a keen and continuing awareness of Communist imperialism—if it had done its own hard training job—more effective policies might have been devised, first to contain the enemy and then to defeat him.

In any event, the sponsors observe, the Foreign Service Institute exists for purposes at once broader and narrower. Its principal task is to teach the whole of diplomacy to the Department's own personnel. The Freedom Academy would specialize in the field of "Communist external political warfare," and the devising of means to combat it. In the sponsors' view, only an independent agency, cooperating with State, Defense, and the CIA but separate from them, could run the proposed institution.

The committee report gives no indication of the probable cost of the freedom commission (the State Department's cool guess is "several million dollars a year"), but in terms of total outlays for national security the sum would not be large. Quite conceivably, the investment might bring far greater returns than we got from the $900 million in foreign aid laid out for Indonesia.

NATIONAL AMERICAN LEGION BASEBALL WEEK—LEGISLATIVE REAPPORTIONMENT

The Senate resumed the consideration of the joint resolution (S.J. Res. 66) to provide for the designation of the period from August 31 through September 6 in 1965, as "National American Legion Baseball Week."

LEGISLATIVE REAPPORTIONMENT: SOUTH DAKOTA HAS PROUD HISTORY OF EQUALITY

Mr. McGOVERN. Mr. President, it is a fundamental constitutional principle that all citizens shall enjoy equal protection of the laws. The 14th amendment says that no State shall make or enforce any law which abridges the privileges or immunities of U.S. citizens. Furthermore, no State may deprive any person of life, liberty, or property without due process of law. Finally, a State may not deny to any person within its jurisdiction the equal protection of the laws. Indeed, the rallying cry of the American Revolution, which gave birth to our Nation, was based on this concept of equal and just representation—"No taxation without representation."

Acting on the basis of the equal protection clause, the U.S. Supreme Court—in the highly significant case of Reynolds against Sims—ruled that the apportionment of State legislatures must be equitably based upon population: the concept of "one man, one vote." The Senate must now decide whether to nullify the Supreme Court's ruling by passing a constitutional amendment which would allow States to apportion legislatures on factors other than population.

Mr. President, my colleagues in the Senate have ably discussed the legal questions involved in the reapportionment controversy. This year, having passed sweeping legislation to protect voting rights it would be strange indeed for the Senate to decide that certain citizens' votes should mean more than others. I am impressed by the arguments advanced by the junior Senator from Maryland [Mr. TYDINGS] and the junior Senator from New York [Mr. KENNEDY] that passage of the so-called Dirksen amendment would impede the progress of civil rights.

I am especially interested in the effect of reapportionment on the effectiveness of State governments. We hear much today about the desirability of having more vital and energetic governments on the State level. Now we must ask whether a State government which is not responsive to the population distribution in a State can ever be truly effective. If population centers within a State can expect no aid from the State governments, they may feel that their only choice is to go to the Federal Government. Reapportionment on the basis of population is destined to lead to more healthy State and local government and to breathe fresh life and vitality into the principle of local responsibility. The continued existence of malapportionment can only be a hurdle to effective State and local government.

This situation was recognized by the Commission on Intergovernmental Relations, which reported to the President in 1955. The Commission, under the chairmanship of Meyer Kestnbaum, was charged with an examination of the relationship between the States and the National Government in our Federal system. On the question of reapportionment, the report concluded:

> Reapportionment should not be thought of solely in terms of a conflict of interests between urban and rural areas. In the long run, the interests of all in an equitable system of representation that will strengthen State government is far more important than any temporary advantage to an area enjoying overrepresentation.

I am very proud of my State, South Dakota, because it has been responsive to the necessity of fair representation for all our citizens. Article III, section 2, of the South Dakota State constitution declares that the membership of the State senate may vary from not less than 25 to not more than 35. The membership of the State house of representatives may vary from not less than 50 to not more than 75. Because both houses of the South Dakota Legislature are comparatively small, the apportionment problems that arise are particularly difficult to solve. Equitably apportioning the statutory 75 house seats among 67 counties with populations varying from 1,042 to 86,575 is difficult. Even more taxing is the job of dividing the 35 senate seats among the same counties in an equitable manner.

Nevertheless, South Dakota legislatures have made significant and largely successful efforts to apportion the State in accordance with population movements. The South Dakota constitution laid out the legislative districts from which the members of the first State legislature were to be elected. Under section 2, article XIX, this apportionment was to remain in effect until otherwise provided by law. The legislature of 1891 passed a major reapportionment act, and others followed in 1897, 1907, 1911, 1917, and 1937. In addition, adjustments were made in 1903, 1951, and 1961.

Striving to draw apportionments which would reflect population movements, the South Dakota legislatures of the early years sought to take into account the increasing population in the area west of the Missouri River—the West River area. Possessing only 11 percent of the seats in both the house and senate under the original constitutional apportionment of 1889, the West River, in 1961, held 25 percent of the house seats and 29 percent of the senate seats.

The 1961 reapportionment represented a step—although not the final one—on the road to equitable representation. In a paper prepared under the auspices of the Governmental Research Bureau of the State University of South Dakota, Dr.

Alan L. Clem, associate director of the bureau, evaluates the 1961 reapportionment. Dr. Clem notes that:

On the basis of sectional representation, the legislature in 1961 did improve matters considerably by shifting a senate seat out of the northeastern quarter (Brown County) and into the West River section (Pennington County). Before the 1961 reapportionment, the West River section had been underrepresented in both the house and the senate.

On the basis of the 1961 apportionment, South Dakota was placed in the "well apportioned" category by Glendon Schubert and Charles Press in an article in the American Political Science Review for June 1964. Still, South Dakota's largest counties remained underrepresented. Once again, in 1965, the State legislature took action to bring legislative apportionment into line with population concentrations. This year, South Dakota has passed both a legislative and congressional reapportionment.

Mr. President, I ask unanimous consent that two tables—one showing the populations of South Dakota's house districts and the other showing the populations of her senate districts—be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McGOVERN. Mr. President, South Dakotans can take pride in the record of our State in living up to the "one-man, one-vote" standard set forth by the Supreme Court. Only 2 of 29 senatorial districts and only 3 of 39 house districts deviate from their respective chamber averages by more than 15 percent. None of the deviations reach 20 percent, and it appears that they have resulted principally from particular arrangements of the population that are invariably a problem in redistricting. South Dakota has done well in complying with the equitable apportionment which is called for both by the Federal and State constitutions.

Professor Clem has written to me concerning the Dirksen amendment. At the close of his letter is this observation which I find eloquent and moving:

May I be allowed, in closing, one personal conclusion. I deeply revere the American political heritage, particularly its Constitution and the principles of self-government, of free government, of limited government, and of responsible government that we associate with it. Crucial to these principles is the political equality of every citizen. In this sense, I strongly believe it would be wise to defeat the Dirksen reapportionment amendment and any other proposal that would limit the rights of Americans to receive fair representation and the equal protection of the laws. As the 1964 court decisions said, the right of qualified citizens to political equality should be beyond the reach of the referendum as well as of the legislative process.

I agree with this well-stated opinion of Professor Clem's. Acting in accordance with the American tradition of political equality and South Dakota's proud history of fair apportionment, I shall oppose this attempt to dilute the Supreme Court's ruling.

EXHIBIT 1

TABLE 3.—*South Dakota House of Representatives districts, 1965 apportionment*

District No.	Members	Counties	Census	Number per member
1		Harding and Perkins	8,348	
2		Butte	8,592	
3	2	Lawrence	17,075	8,537
4	6	Pennington	58,195	9,699
5	2	Custer and Fall River	15,594	7,797
6		Bennett and Shannon	9,053	
7		Mellette, Todd, and Washabaugh	8,367	
8	2	Gregory and Tripp	16,160	8,080
9		Jackson, Jones, and Lyman	8,479	
10	2	Haakon, Meade, and Ziebach	17,842	8,921
11		Campbell and Corson	9,329	
12		Dewey and Potter	10,183	
13	2	Hughes, Stanley, and Sully	19,417	9,708
14		Walworth	8,097	
15	2	Edmunds, Faulk, and McPherson	16,297	8,148
16		Hand and Hyde	9,314	
17	2	Brule and Charles Mix	18,104	9,052
18	4	Brown	34,106	8,526
19		Day	10,516	
20	2	Clark and Spink	18,840	9,420
21	2	Beadle	21,682	10,841
22		Aurora, Buffalo, and Jerauld	10,344	
23	2	Davison	16,681	8,340
24	2	Douglas and Hutchinson	16,198	8,099
25		Bon Homme	9,229	
26	2	Yankton	17,551	8,775
27		Clay	10,810	
28		Union	10,197	
29	3	Lincoln and Turner	23,530	7,843
30	9	Minnehaha	86,575	9,619
31		McCook	8,268	
32		Hanson and Sanborn	9,225	
33	2	Lake and Miner	17,162	8,581
34		Moody	8,810	
35	2	Brookings	20,046	10,023
36	2	Hamlin and Kingsbury	15,530	7,765
37	2	Codington	20,220	10,110
38	2	Deuel and Grant	16,695	8,347
39	2	Marshall and Roberts	19,853	9,926
		Total	680,514	

TABLE 4.—*South Dakota Senate districts, 1965 apportionment*

District No.	Members	Counties	Census	Number per member
1		Marshall and Roberts	19,853	
2	2	Brown	34,106	17,053
3		Deuel and Grant	16,695	
4		Codington	20,220	
5		Clark and Day	17,650	
6		Brookings	20,046	
7		Hamlin, Kingsbury, and Miner	20,928	
8		Beadle	21,682	
9		Hanson, McCook, and Sanborn	17,493	
10		Lake and Moody	20,574	
11	4	Minnehaha	86,575	21,643
12		Lincoln and Union	22,568	
13		Clay and Turner	21,969	
14		Douglas and Hutchinson	16,198	
15		Yankton	17,551	
16		Bon Homme and Charles Mix	21,014	
17		Davison	16,681	
18		Aurora, Brule, Buffalo, and Jerauld	16,663	
19		Hand, Hyde, and Spink	21,020	
20		Edmunds, Faulk, McPherson, and Potter	21,223	
21		Campbell, Corson, and Walworth	17,426	
22		Dewey, Meade, and Ziebach	19,796	
23		Hughes, Stanley, and Sully	19,417	
24		Bennett, Haakon, Jackson, Jones, Lyman, Mellette, and Washabaugh	18,541	
25		Gregory, Todd, and Tripp	20,821	
26		Custer, Fall River, and Shannon	21,594	
27		Lawrence	17,075	
28	3	Pennington	58,195	19,398
29		Butte, Harding, and Perkins	16,940	
		Total	680,514	

Mr. MURPHY. Mr. President, as a cosponsor, I rise to urge my colleagues to support Senate Joint Resolution 2, which proposes a constitutional amendment permitting one house of a State legislature to be apportioned on factors other than population, provided the people of the State so elect.

I believe that this is a most fundamental and paramount domestic issue facing the Congress and the American people. I would indeed be negligent if I did not, at the outset, pay tribute and commend the distinguished minority leader for his perseverance, his astuteness, and his leadership in chairing and steering this bill to the Senate floor.

Mr. President, I should also like to compliment the distinguished members of the Judiciary Committee who took

part in the extensive hearings that were held on this resolution. The hearings have helped to focus the people's attention on this issue. I have studied them carefully and I hope that as many Americans as possible will read them. The hearings have been helpful in improving Senate Joint Resolution 2. As a result of these hearings, a bill has been drafted that will permit the people, if they so elect, to have one house of a State legislature based on factors other than population.

At the same time, safeguards have been written into the measure to make certain that the composition of the legislature will continue to reflect the wishes and the desires of the people. It does this by requiring the resubmission to the people of any approved plan every 10 years.

The Supreme Court on June 15, 1964, in Reynolds against Sims, ruled that both houses of a State legislature must be apportioned on the basis of population. This was a precedent-shattering and a far-reaching decision—one I believe that goes to the very foundation of our system of free government. No decision since the birth of the Republic portends greater disruption and alteration of our State legislatures.

To implement the Court's decision would, in my opinion, result in a devastating blow to representative government and bring an unwanted end to the time-tested and successful tradition of our balanced bicameral State legislature—a system under which the States have prospered and grown, a system under which the many interests of our many people have been accommodated, and a system under which the will of the majority has prevailed and the rights of the minority have been protected.

The United States has changed drastically since its founding. From the Thirteen Original States of approximately 3 million rural people engaged mainly in agriculture, we have developed into a mighty Nation of 190 million people spanning the continent and reaching many miles into the Pacific to Hawaii. During this development, the face of the Nation has changed. Unlike the rural agricultural society of our forebears, we became an industrial urban society. Because of this remarkable growth, it is obvious that the State legislatures have served the people well. True, the work of society is not completed; yet one can discern the steady advance of this great Nation. It is readily admitted that in many cases the legislators failed to reapportion the lower house to reflect the population changes.

Senate Joint Resolution 2 is a reasonable approach. It is an approach that allows the people to continue to pattern their legislature after the Federal system. It is an approach that will allow the people to decide whether factors other than population are important in achieving a fair representation. It is an approach that allows continuous scrutiny by the American people.

Mr. President, I ask unanimous consent that a recent editorial from the Sunday Star, entitled "We Vote for Dirksen," urging support of the Dirksen amendment, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Sunday Star, Aug. 1, 1965]

WE VOTE FOR DIRKSEN

The Dirksen constitutional amendment, which would modify the Supreme Court's one-man, one-vote ruling, is slated for a decisive test in the Senate this week. Senator DIRKSEN and Senator MANSFIELD, the majority leader, have agreed to seek unanimous consent tomorrow for a showdown vote on Wednesday. If the opponents think they can block the two-thirds Senate vote required for passage of the Dirksen proposal, they presumably will go along with the unanimous-consent appeal. If not, if they do not believe they have the needed negative votes, then a prolonged "liberal" filibuster is to be anticipated.

We think the Dirksen proposal, in its present form, should be approved. For it has been significantly improved since it was first submitted.

At one time it was feared that the amendment, if finally adopted, would enable State legislatures controlled by members representing a minority of a State's population to apportion one branch of a legislature on factors other than population. In other words, one house of the legislature might continue to be dominated by a minority of the population over the objection of the majority.

This is not true. The Dirksen amendment contains two key provisions. First, assuming ratification of the amendment, a State legislature wishing to act under it would be required to submit two plans to the voters of the State in a referendum. One plan would have to embody the one-man, one-vote concept. The other would authorize apportionment of one branch of a legislature on such factors as the people "deem appropriate." In short, at the very outset a majority of the voters in each State would have to approve any modification of the one-man, one-vote rule laid down by the Supreme Court last year.

Furthermore, a recent change in the amendment stipulates that any plan approved in an initial referendum would have to be resubmitted in a new referendum every 10 years.

To us, it seems perfectly clear that the amendment, far from protecting entrenched minorities, would enable the people of the States to have a voice in choosing their own form of government, and to revise their choice should they see fit to do so at 10-year intervals.

What could be more reasonable, more consistent with our democratic process? To oppose it on "liberal" grounds is absurd. We hope the Dirksen amendment will be called up this week, and that the necessary two-thirds vote to approve it will be forthcoming.

Mr. MURPHY. Mr. President, as the editorial states:

It seems perfectly clear that the amendment far from protecting entrenched minorities will enable the people of the States to have a voice in choosing their own form of government and to revise their choice should they see fit to do so at 10-year intervals.

The editorial ponders:

What could be more reasonable, more consistent with our democratic process?

There is general agreement that a legislature cannot be apportioned with mathematical exactness. The Supreme Court has recognized this in its opinions. If we are in fact desirous of apportioning on a true one-man, one-vote basis, we would require all representatives to run at large in the States. Such a proposal would be a logical extension of the opponents' arguments. Such a proposal would give all an equal voice, but it would not result in giving good representation. Fair representation, I submit, is the issue before us. To show that an at-large election is not completely remote, it might be well to heed Justice Harlan's dissenting opinion in Reynolds against Sims:

It is not mere fancy to suppose that in order to avoid problems, the Court one day may be tempted to hold that all State legislators must be elected in statewide elections.

All this serves to illustrate the fact that we are, indeed, dealing with a most complex issue.

Opponents of this issue, using the finest techniques of Madison Avenue, have attempted to cloud and confuse the issue by drumming the catchy euphonic "one man, one voice" slogan throughout the country. I hope that the people will not be taken in by this appealing and all too simple slogan.

I can assure the minority leader this is an issue that is foremost in the minds of Californians. It is an issue which transcends political parties. Senate Joint Resolution 2 has the support of Governor Brown. It also has the bipartisan support of the California State Legislature. The majority leader of the State senate, Senator Hugh Burns, and the minority leader, Senator Jack McCarthy, have diligently and tirelessly worked for the right of the people to continue to have a legislature following the Federal plan. California citizens have been heard on this issue, also. The present apportionment of the California State Legislature was established on the basis of an initiative proceeding in 1926. At that election, there also appeared on the ballot an alternative plan, which, incidentally, would have complied with the Supreme Court's one-man, one-vote plan. The people decisively rejected the one-man, one-vote plan, and voted for the legislature patterned after the Federal system.

Subsequently, the people's voice was again heard, and the earlier decision was reaffirmed in 1928, again in 1948, again in 1960, and again in 1962.

Overwhelming support of the resolution memorializing Congress to enact a constitutional amendment was received in the California Legislature. In the California 40-man Senate, 39 out of 39 voted for the resoultion. In fact, all 39 of the senators cosponsored the resolution. We did not have 40, because at the moment there was a vacancy in the California Senate. Obviously, Mr. President, senators from the populous areas as well as senators from the rural areas wholeheartedly endorsed the Dirksen amendment.

In the assembly, the resolution passed easily by a vote of 58 to 10.

Thus, Mr. President, there can be no question on how the citizens of the great State of California feel on this issue.

I believe that the opponents of the Dirksen amendment are aware of the voters' sentiments in this issue. Knowing the people's feelings, they object to

submitting this question to the people. They feel that the peoples' verdict will not coincide with their views as to what is fair representation.

My own personal observations and conversations with my California constituents, together with the mail I have received on this issue, confirm the people's feelings as expressed through the ballot and the actions of the State legislature on this issue. There is a substantial consensus among Californians on this issue.

Opponents of the Dirksen amendment have tried to cloud the question by implying that the proposed constitutional amendment is a civil rights issue. Apparently, this is done to benefit from the recognized public sympathy across the country for both the Civil Rights Act of 1964, and the Voting Rights Act of 1965.

Mr. President, I reject and resent this argument. It is very unfair to suggest or imply that the Senator from Illinois [Mr. DIRKSEN], the man most responsible for the civil rights acts, would now attempt to enact legislation that would harm the civil rights cause. This argument is specious to say the least.

As the opponents of the Dirksen amendment know very well, the Supreme Court even prior to its decision in the reapportionment cases ruled in Gomillian against Lightfoot that voting boundaries could not be fixed that would discriminate against Negroes. The distinguished Senator from Kentucky [Mr. COOPER], refuted this argument when he spoke to this point on June 30. I, for one, would hope that the discussion would not be confused by the interjection of civil rights.

Opponents of the Dirksen resolution argue that no analogy exists between the bicameral legislature on the State level and the Federal system. What they really mean to say is that no perfect analogy exists. Opponents reached the conclusion that no analogy exists by stating that our forefathers accepted the Great Compromise providing for one House of our Federal Legislature to be based on population and the other House to be based on equal representation because a "gun was at their back." Further, they argue, the counties cannot be compared to the States because the former are sovereign.

Mr. President, admittedly, there are distinctions between the counties on the one hand and the States on the other, but I feel that the American people, with their great commonsense, believe this is not a meaningful distinction. They would say, "Even if all you say is true, so what?"

Regardless of how the Federal system was fashioned, it has been a great system—a system that has served the Nation well in times of both peace and war. Despite the distinctions, the State governments are similar to the Federal system. For the most part, the State legislatures have served their people well. Where the State legislatures have been at fault, is in their failure, often ignoring the explicit commands of the State constitutions, to apportion the lower house on a true population basis. Some adjustments are unquestionably called for, but I do not believe that we should scrap the entire workable system because repairs are needed.

Mr. President, ask the teachers across the country and their pupils. They will tell us that an analogy exists between the Federal and the State legislatures. A majority of a special committee of the influential American Bar Association concluded that an analogy exists. The academic theory that no such analogy exists flies in the face of what actually has been so in practice and the common sense and good judgment of the American people.

I find Judge Campbell's opinion in *Germano* v. *Kernar*, 220 Fed. Supp. 230, most persuasive.

Mr. President, I ask unanimous consent that excerpts from Judge Campbell's opinion be inserted in the RECORD at this point.

There being no objection the except was ordered to be printed in the RECORD, as follows:

In adopting this political and practical compromise, Illinois has done no more and no less in my opinion than to follow the example of the Founding Fathers in the Constitutional Convention at Philadelphia. Having recognized the necessity for protecting minority voting rights and local sovereignty, the Founding Fathers adopted the system still in use providing for the election of our bicameral Congress. As in Illinois, election to the upper House is based on geographical area, or if you will, a weighted voting system. Election to the lower House is based on population similar to Illinois. Should that which is deemed proper when observed in the presence of the Federal Government be suddenly deemed improper when associated with a sovereign State? Must the subject be more royal than the king? Must the State be more democratic than the United States?

Necessarily, I am well aware of the atypical distinctions between the Federal Government and the individual States. My reliance on this analogy is limited somewhat by these nuances. The States as sovereign preexisting smaller units created the larger unit, the Federal Government. Contrastingly, in apportionment cases we view the States in a different perspective; as the larger unit creating the smaller. And further, the smaller unit in apportionment cases lacks the element of sovereignty possessed by the States in their relationship to the Federal Government. However, these distinctions do not render for naught this analogy. In both instances the purposes were similar, to protect minority rights and check unopposed majority control. The methods selected to achieve the desired purposes are similar, and by and large the results have been similar.

Mr. MURPHY. Thus, it may be true that counties are not sovereign as are the respective States. Yet, the subdivisions of the States do represent a governing entity. Within the unit are people with similar interests, similar problems, and similar hopes for tomorrow. To me, it seems perfectly logical to have one house reflect, if the people desire, the local governing unit.

Mr. President, it has been pointed out during the hearings held before the Judiciary Committee that one benefit of organizing a State legislature along the lines of a federal system is that the representatives of the upper house have a tendency to view problems with a Statewide outlook. The senate of my State has always responded to the needs of the entire State in the finest tradition. The League of California Cities, which obviously is vitally concerned with urban problems, made the following comment regarding the 1961 session of the California Legislature:

Both offensively and defensively the so-called rural senate and its committees showed more understanding and sympathy toward bills of interest to the cities than did the urban assembly.

To further illustrate this fact, I should like to have incorporated at this point in the RECORD a study prepared by the California State Legislature outlining the record of the California State Senate on urban legislation. A reading of this document will dispose of the myth that one body in the State legislature based on factors other than population will be unsympathetic to the needs of an urban area.

Mr. President, I ask unanimous consent that the study of the California State Legislature may be printed at the conclusion of my remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MURPHY. Mr. President, opponents of the Dirksen amendment contend that we are dealing with a personal right similar to that of freedom of speech, freedom of the press, and freedom of religion, and for that reason we should not act on the Dirksen resolution. First, from my reading of the Constitution, I can see no constitutional prohibition preventing the people from altering even these basic rights through the established amending procedure. Would they do so? Obviously not, for even if such a proposal to eliminate a basic right were made, the American people would rise and resoundingly shout it down. Could the opponents of the Dirksen amendment for a single second imagine the American people tolerating the existence and continuance on an infringement of the right of freedom of speech, freedom of the press, and freedom of religion for the period of time which the States have had one house of a State legislature apportioned on factors other than population? Certainly not. Yet, I have seen an effort to equate these basic rights with the question of fair representation. They are just not the same thing.

Mr. President, I ask unanimous consent that a portion of a statement made by the distinguished Professor Robert H. Dixon of the George Washington University Law School in which he distinguishes between some of the personal civil rights and the question of fair representation be printed in the RECORD. Professor Dixon has long been a student of constitutional law and his remarks cogently refute the opposition's argument.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

1. We are not dealing here solely with a matter of civil rights and liberties, even though voting concededly is involved. Few would argue that the people of one State should be the final arbiter of such federally

protected interests as freedom of speech or racial equality. But that is not the kind of issue before us. Rather, the issue is fair representation. The issue can be phrased also as one of political equity. To put it more clearly, we are dealing with the intrastate problem of setting up a legislature, a representation system, to serve as a substitute for a direct democracy of the town meeting which is impractical on a statewide basis. Apportionment and districting are part of the process of setting up a legislature to serve as a substitute for direct democracy. Viewed thusly, the argument for giving serious consideration to an amendment of the Javits-Church type (S.J. Res. 44 and S.J. Res. 38) is based to a large degree on the proposition that the people served by a given apportionment-representation system are appropriate judges of the system, and they express their judgment through the direct democracy device of recurring statewide one-man, one-vote referendums.

The National Committee for Fair Representation, which has done good work in the past, would oppose looking at the matter this way, but in opposing it I think the National Committee is in danger of belying the term fair representation in its title. It is in danger of becoming a National Committee for One-Man, One-Vote, as an abstract, self-sufficient mathematical absolute. This is to talk the language of faith, and puts one beyond the pale of reasoned discussion or empirical inquiry. The literature of political science and of law indicates that the problems and complexities in working out fair and effective representation systems are far more involved than the National Committee is willing to admit in its most recent pronouncements.

In apportionment cases the personal civil right of the voter is intertwined with large, corollary questions concerning representation; i.e., concerning political philosophies and practices of representation in a dynamically democratic public order, in which groups are as relevant as individuals. The Supreme Court, in its most recent pronouncement on reapportionment 2 months ago (*Fortson* v. *Dorsey*, 85 S. Ct. 498 (1965)) suggested the possible existence of a constitutional right of groups to be fairly represented—i.e., a political equity interest as a corollary of "one-man, one-vote." The Court did not have to decide the issue because the factual record in *Fortson* was incomplete but Justice Brennan did write as follows:

"It might well be that designedly or otherwise, a multimember constituency apportionment scheme, under the circumstances of a particular case, would operate to minimize or cancel out the voting strength of racial or political elements of the voting population."

2. In other writings, while advocating the "one-man, one-vote" or "equal population district" standard as a primary guide to reapportionment, I have pointed out its insufficiencies as an exclusive guide to fair representation. For example, an at-large election satisfied the mathematics of one-man, one-vote, but yields no representation at all for the minority, no matter how large. (See 38 Notre Dame Lawyer 367 (1963); 52 National Civic Review 543 (1963); 63 Michigan Law Review 209 (1964).)

Mr. MURPHY. Mr. President, opponents of the Dirksen amendment scream that the adoption of the amendment would perpetuate the "rotten borough" system. Although I would not deny that one can produce examples showing that a rural-dominated legislature has supported the will of the majority, at the same time, I am aware that history is more replete with examples of corruption by city machines. A balanced legislature, on the other hand, serves as a barrier against the extremes of rural domination and city domination. Senator Rattigan addressed himself to this point before the Senate Judiciary Committee:

We Californians like to compliment ourselves on our record of clean politics and our freedom from boss rule. But it has not always been thus.

California's celebrated progressive era opened with the bitter campaign in 1910 in which Hiram Johnson and the Lincoln Roosevelt League vanquished the railroad machine which had dominated both the legislative and executive branches, at various intervals, since the 1870's.

This unsavory machine era in California history curiously falls within the same period—1879–1926—which saw the legislature organized wholly on a population basis—both houses. While this certainly is not intended to mean that one man, one vote gives rise to corrupt politics, the context suggests that there is, indeed, much to be said for retaining one house on a different districting basis than the other. Seldom does a political machine acquire domination on the basis of both urban and rural, north and south, worker and employer, political strength.

One of our most distinguished Governors once said:

"Moves have been made to upset the balanced representation in our State, even though it has served us well and is strictly in accord with American tradition and the pattern of our National Government. There was a time when this State was completely dominated by boss rule * * * Any weakening of the laws would invite a return of boss rule, which we are now happily rid of."

The then spokesman for senate apportionment as it then stood, as it was in 1948, is the present Chief Justice of the United States, the Honorable Earl Warren.

The distinguished Senator's remarks, that one of the most corrupt periods in the history of California politics occurred surprisingly enough when the State legislature was organized wholly on a population basis, should be carefully digested.

I cannot help noticing that many of the one-man, one-vote advocates come from areas wherein the big-city vote has been most helpful to them. I also note that for the most part, these same cities are not recognized for having model governments.

As Senators know, California like most States of the Union has a bicameral legislature. The lower house, or Assembly, is generally based on population. On the other hand, the senate consists of 40 members. In the senate, no county can have more than one senator and no senatorial district can be composed of more than three counties.

I naturally am proud of the fact that I, along with my distinguished colleague [Mr. KUCHEL], have the privilege of representing the largest state in the union. The varying geography of the State is matched only by its size and by the diverse interests and backgrounds of the State's inhabitants. We have towering and majestic mountains, bountiful and productive valleys, irrigated deserts, and attractive and busy coasts. I mention this not to boast about the Golden State, but rather to paint a background from which I might destroy the myth that a legislature, with one house based on factors other than population, cannot respond and react to the needs and the problems of the people. I have sat and listened to Senators speaking of the legislative obstacles confronting legislation when a state legislature is so organized. Is there any State in the Union, Mr. President, that faces problems greater and more complex than the State of California? Yet, look at the record. Has the California legislature stumbled in inefficiency and thwarted the will of the people? I challenge any of my colleagues to show me any State, anywhere, having a legislature based on the so-called one-man, one-vote plan that has a more responsive record than the California Legislature. It is true that California has not solved all of its problems, but I do know that in most areas we are showing the way for the other States as well as the Federal Government. For as the San Francisco Examiner says editorially:

Backward government in some States can certainly be attributed in part to the fact that their legislatures are badly apportioned and rural dominated. But California, with its enlightened and forward-looking State government, including its legislature illustrates the error of generalizing on that point.

Mr. President, if the Dirksen amendment is not adopted, the citizens of California will have to discard the present form of their legislature. This legislature has not only served the people of California with distinction, but it has also enacted legislation which has served as a model of legislation in the other States of the Union.

The opponents of the Dirksen measure have made great noise about senatorial district No. 28 in my State, which is comprised of the counties of Inyo, Mono, and Alpine. This is the smallest senatorial district in my State and the one that is 450 times smaller than Los Angeles County. This is the only substantial area in California that lies to the east of the Sierra Nevadas. The legislature, in its wisdom, first gave these counties two representatives, and later the legislature decided to give each county a representative, so that effective representation might be given to these citizens in Sacramento.

What might happen, Mr. President, if we were to follow the court's one-man, one-vote decree? I again quote from Senator Rattigan's testimony before the Senate Judiciary Committee where he states:

To reduce this to one dramatic example, if you would put your finger on Imperial County, which is at the extreme lower right, the very foot of California on the right, that is the Mexican border. One prospective district and one district which might have to be so identified by reason of community of interests—that is desert or mountain territory, with relatively inadequate highway communication with the rest of California because of the complex of mountains—one district will start at Imperial County and run from there along the entire eastern border of California, to and including Modoc County at the extreme upper right, which is on the border of Oregon. If that district were so apportioned and its population would be about right under the Supreme Court's theory of one man, one vote, that district would be 1,000 miles long by airline and possibly 2,000 miles long by traversible highway, most of which, because of our mountains, would lie in the State of Nevada. That entire district could be reached from the rest of California by only

about six all-year highways. Many of our trans-Sierra highways are closed all winter because of the snow. About six of them, most of those in the south, are open all year.

But one district for one man, because of one man, one vote, would be 2,000 miles by road. There is no rail or bus transportation and no regular air transportation the length of that area. But by State highway, it would be 2,000 miles from one end of his district to the other.

It would be extremely difficult to reapportion that long district on a lateral method so that it would be split about six ways across the State because of the paucity and the inadequacy of our all-year highway system across the Sierra Nevada Mountains.

In conclusion I reiterate that the Federal plan of apportionment is the clear preference of the people of California. It is an arrangement which has served us well through our most trying years.

California's balanced legislature has blended remarkably well the diverse interests of its people. This system, by achieving a consensus among the many groups of people, has produced effective and fair representation in the proper interests of all.

Many foresee inevitable conflict between rural and urban America. I do not share their fears, for Americans historically have been sympathetic to their fellow citizens' problems. Americans realize that the rural and urban interests compliment and are interdependent of each other.

States should be permitted to organize their government in the manner desired by the people. Senate Joint Resolution 2 would establish broad guidelines which would require that one house be truly based on population and at the same time permit the upper house, if the people desired, to be based on factors other than population.

Frequently, opponents of Senate Joint Resolution 2 also rely on the catchy euphonic one-man, one-vote slogan. Yet, supporters of the one-man, one-vote decision by their very opposition seem to fear the result of allowing citizens such a vote, for one man, one vote is exactly what this resolution commends. Every voter would voice his choice through the ballot box, whether he wished to be represented in one house of a bicameral legislature on factors other than population. It allows people to determine whether the State's unique characteristics require that representation in the upper house be based on factors such as geography, economics, area and local political subdivisions.

I wish to make it clear that this is no effort to undermine the Supreme Court. Decisions of the Supreme Court, like the operations of the other great branches of our Government, properly remain accountable to the people, the ultimate source of political power in our free society. The courts do not have the final word in constitutional law. Our Founding Fathers wisely established an amending procedure giving the people the final verdict. I, for one, believe that the people have the right and they should be given the opportunity to express their decision on this most fundamental question of representation in the State legislature. I urge passage of the resolution.

Mr. President, I ask unanimous consent that various editorials in support of the Dirksen amendment be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[Times editorials, Feb. 21, 1965]

REAPPORTIONMENT: NO TIME TO GIVE UP

Finally overcoming its reluctance, the assembly has joined the State senate in petitioning Congress to act on modifying the Supreme Court's harsh legislative reapportionment decision.

A great deal of precious time was lost by assembly footdragging on support of a proposed constitutional amendment restoring the right of States to elect one legislative house on a basis other than population. Approval by Congress and the States of such an amendment is the surest way out of the reapportionment dilemma.

California's upper house has been ordered to reapportion itself by July 1 according to the Court's one-man, one-vote decree. Thus far, however, there has been far more argument than action in Sacramento.

But now that the assembly has voted its approval of the reapportionment amendment, the legislators and particularly Governor Brown should begin a determined effort to win congressional approval. California has the second largest delegation in Congress and it can surely make common cause with the many other States hit by the Court ruling.

The amendment introduced by Senator EVERETT M. DIRKSEN, Republican, of Illinois, and supported by the American Bar Association would permit one house of State legislatures to be apportioned "upon the basis of factors other than population" if approved by voters "in accordance with law and with the provisions of this Constitution."

No reapportionment plan thus could be adopted unless the right to vote was protected and enforced for all citizens. The absence of such protection was a valid basis for the Supreme Court's earlier decisions on legislative reapportionment.

In California, however, the present system was adopted by the vote of the people and endorsed by the people in several subsequent elections. In spite of some disparity in urban representation, the system is basically sound and has served California well, as Chief Justice Earl Warren said so forcefully when he was Governor.

Preservation of that system is worth the fight, worth the efforts of California's Governor, State legislators, and Members of Congress. And the time for an all-out campaign is now.

[From the San Diego Union, Feb. 23, 1965]

PUBLIC MUST RAISE VOICE: REAPPORTIONMENT STILL THREAT

The people of California cannot let the legislature rest its case on apportionment by the passage of one resolution.

A resolution passed by both houses and in conference asks Congress to nullify a U.S. Supreme Court decision requiring the State senate as well as the assembly to be based on population.

The resolution is good as far as it goes, but raises a mere whisper to Congress instead of the groundswell needed to avert the drastic Supreme Court decision.

Congress and the Supreme Court have both ignored previous pleas of States to reconsider the so-called one-man, one-vote ruling. Congress will continue to ignore the pleas unless there is enough public pressure to reach its politically sensitive nerves.

California's stake in continuing the pressure is great. If the Supreme Court's ruling is allowed to stand, a few populous southern counties will control the State senate as well as the assembly.

Representation in the large and economically important northern counties that are sparsely populated would depend on the grace and favor of the urban legislators. State government would be far removed from people of the north.

The people of California have clearly indicated in past years they do not want the State senate elected on a population basis. It is written into the constitution. Six proposals to reapportion the legislature were defeated at the polls since the turn of the century. The last was as recently as 1962.

As then Gov. Earl Warren pointed out in 1948, "Large counties are far more important in the life of our State than their population bears to the entire population of the State. It is for this reason that I have never been in favor of redistricting representation in our senate on a strictly population basis."

Yet as Chief Justice of the United States he favored the one-man, one-vote ruling that will leave years of bitterness and divisiveness in California. Some already is evident in the proposals to divide California into two States.

The resolution passed by the legislature to seek relief from the Supreme Court decision is a good initial step. Now the campaign must be started on all fronts in earnest and maintained incessantly.

[From the San Francisco Examiner, Feb. 4, 1965]

IT ISN'T SO

Justice Arthur Goldberg of the U.S. Supreme Court defended in Washington the other day the Court's recent decision compelling the reapportionment of State senates on a population basis. He said, "For the first time in the country's history, every man's vote is going to have as much weight as the next man's."

This is not true. It was never true. It was not meant to be true. California has 2 U.S. Senators and 18 million population. Nevada has 2 U.S. Senators and 300,000 population. The vote of a single Nevada citizen weighs as much in the U.S. Senate as the votes of 60 Californians.

That is the federal system, prescribed for the U.S. Senate in the Constitution. It was also, in a modified and very successful way, the system followed in California's State senate until the Court interfered.

[From the Bakersfield Californian, Feb. 23, 1965]

SENATE PUSHES REAPPORTIONMENT FIGHT

A nationwide effort to enlist public support for a proposed constitutional amendment affirming the right of States to determine their own legislative organization and apportionment has been undertaken by the California Legislature. It is a project that earns the commendation of all Californians and certainly should receive the prompt and unqualified support from the citizens of all States. It is one that conerns their most fundamental right.

Having approved a Senate joint resolution favoring the passage of such an amendment, the California Legislature is requesting those of the 49 other States to take similar action and asking the support of the California delegation in Congress. It is also seeking to arouse a popular movement among the citizens for the amendment by appealing directly to each legislator in the Nation.

Noting these moves, Senator Walter Stiern of Kern County has observed that California's historic method of legislative apportionment "has been upheld in four statewide elections, and significantly, voters in our dense population centers who would have gained additional senators in such a readjustment balloted heavily to preserve present senate district boundaries which the Court's decision threatens."

Since there is a time limit on the Court's designation for preparation for arranging State affairs to comply with its ruling, the need for concentrated action to bring about a constitutional amendment is all the more pressing. It is certainly the "sense" of the States that defense of their fundamental rights is to be accomplished at all costs, and the citizens of the States should make their wish clear to the Congress and to the legislatures that this amendment, giving positive assurance to the States of their right to apportion their legislature as they wish, a right that had been assumed for more than a century and a half until the Court's recent decision.

Rapid and sustained action is necessary and the California senate is to be commended upon its initiative.

[From the Sacramento Bee, Feb. 8, 1965]

APPORTIONMENT DECISION CALLS FOR AMENDMENT

It is noteworthy that U.S. Senator THOMAS H. KUCHEL, of California, a stanch supporter of the U.S. Supreme Court and close friend of Chief Justice Earl Warren, has given his backing to a proposed constitutional amendment which would give States the right to apportion one legislative house on a basis other than population.

If this amendment is adopted and the voters then give their approval to a plan for election of State senators representing geographical areas, California could have the legislative system which existed prior to the Court's ruling and which served the State so well.

There is no sound basis for criticizing the Supreme Court for its decision that the Constitution requires the membership of both houses of State legislatures be based on population. The Court was acting in accordance with its responsibility to interpret the Constitution.

Immediately after the decision was rendered there was a proposal for a congressional act which would have stripped Federal courts of any authority to pass on State apportionment. Such an act would be an improper and dangerous attack on the sanctity of the judiciary.

However, the proposal to amend the Constitution is no more an attack on the Court than was the 16th amendment which made it possible to collect the income tax. Prior to the adoption of the 16th amendment the Supreme Court was obligated by the Constitution to rule that no income tax could be imposed by Congress. This, of course, was changed by adoption of the amendment which permits imposition of the tax.

This is essentially what the proposed apportionment amendment would accomplish. It would change the Constitution specifically to permit States to have one legislative house not based strictly on population. The Supreme Court no longer would be concerned with the matter.

The wishes of the people would be protected fully because the proposal would require that any plan based strictly on population would have to be approved by the voters.

The amendment deserves support because it would permit those States wishing to retain geographical representation in one house to do so, but would not require it. The choice would be left to the people in each State. No approach could be more fair.

[From the San Pedro News-Pilot, Aug. 7, 1964]

REAPPORTIONMENT ISSUE: PEOPLE CAN OVERRULE COURT; NOW IS THE TIME FOR ACTION

A historic June 15 ruling by the U.S. Supreme Court could reshape this country's basic philosophy of government, unless the public moves vigorously to block the proposed change.

The Court on that date decreed the equal protection clause of the 14th amendment requires the States to compose both houses of their legislatures solely on the basis of population. In its unusual interpretation, the Court ignored the fact that the 14th amendment was not intended to prevent a State from setting up the legislative structure it believes best suited to its needs. When the amendment was debated years ago in the House, it was stated the measure "takes from no State any right that ever pertained to it."

California, with its exceptional divergence of economy and geography, could be unusually hard hit by the decision. This State has a concentration of population along its coastline with vast geographical areas inland that are vitally important to the overall economy but thinly populated.

Similar conditions exist in some foreign countries where government representation is based on population alone. What has happened? Political power is concentrated along the coastlines. Tremendous inland resources go undeveloped. Highway and school programs and all major developments are concentrated in the population centers while other areas are ignored. The full potential of such a nation will never be realized until geographic considerations are recognized in government.

Representative WILLIAM MCCULLOCH, Republican, of Ohio, has introduced a resolution in the House of Representatives to amend the Constitution to further guarantee the right of any State to apportion one house of its legislature on "factors other than population."

It reads: "Nothing in the Constitution of the United States shall prohibit a State, having a bicameral legislature, from apportioning the membership of one house of its legislature on factors other than population, if the citizens of the State shall have the opportunity to vote upon the apportionment."

Such an amendment would eliminate any legal quibbling about a State's sovereign authority to maintain its legislative framework on an equitable basis.

Representative MCCULLOCH'S resolution, however, appears doomed unless there is aggressive leadership and support throughout the Nation. In California, the people have repeatedly expressed their desire to maintain the present legislative structure. This is the logical State from which such leadership should emanate.

These leaders should include legislators, political figures, business, and civic groups, and other organizations which are acutely aware of the benefits of the check and balance system. Once organized in California, they should carry their campaign throughout the Nation.

Otherwise, California and other States will be confronted with a real disfranchised "minority"—the people who have not migrated to metropolitan centers.

This development could prove disastrous to this country's entire concept of free and equitable government to its full economic development.

California, the most populous State in the Union, must move now to assume its responsibilities of leadership.

[From the Culver City Star News, Feb. 16]

A REPUBLIC OR A DEMOCRACY? NEW RULE THWARTS CONSTITUTION

The magnitude of the political change that is to come over California is reflected in the tentative plan for reapportionment of the State senate.

Four counties—Los Angeles, Orange, San Diego, and Imperial—would have among them 20 senators. With the help of one additional county, this power group would dominate the affairs of California and its 18 million people.

Reapportionment was a flat of the U.S. Supreme Court, brought about in a ruling on a Tennessee case which enunciated the one-man, one-vote theory.

Subsequently, a panel of Federal judges in Los Angeles set July 1 as a deadline for compliance. Californians themselves were not consulted.

We have read with a great deal of interest the recent remarks of Senator MARGARET CHASE SMITH, Republican, of Maine.

She insists the United States is a republic and a truly representative government, as it "provides representation for the minority as well as the majority."

The U.S. Senate, she says, is striking proof that our Government is not a democracy but a republic.

"New York, with a population of several million people has no more representation in the Senate than my State of Maine, which has a population of less than a million people," she says.

"Both States have two Senators each. This is a check against unlimited majority rule for the protection of minority population States."

The Constitution itself says, "The United States shall guarantee to every State in this Union a republican form of government."

The Supreme Court in 1964 got around the situation with neatness. It was argued that the States entered the Union as sovereign States and Senators were delegates of the States and not the people to the Congress.

Counties, it was contended, are not sovereign but political creatures of the State; therefore any legislative body apportioned by area and not population is unconstitutional, unfair, and not consistent with the 1964 views of Justice Warren.

A large proportion of California voters will in fact be disenfranchised politically, with the vesting of voting power of the senate in the representatives of a few large counties. It will be in effect, "one man, no vote."

[From the Oakland Tribune, Jan. 24, 1965]

RETURNING POWER TO CALIFORNIA'S CITIZENS

Apportionment based partially on geographic factors helps provide balance and flexibility in government. Specifically, it prevents urban areas from acquiring such overwhelming control of legislatures that rural problems are ignored.

Moreover, in areas of rapid growth, where today's rural area is tomorrow's city, geographic apportionment helps provide the upcoming areas with a voice against vested urban interests.

Moreover, cities are less stable and tranquil than rural areas. Legislatures weighted to give greater representation to the most stable elements in society are valuable assets in the process of orderly reform and progress.

The argument is not that cows and stumps should get a vote, but rather that geographic apportionment provides valuable checks and restraints on urban majorities.

We have never lived in a society of absolute majority rule. Any system in which majorities have unlimited dominion over minorities is inherently totalitarian, just as any system that gives a minority unlimited dominion over a majority is inherently totalitarian.

The problem, then, is to protect the vital interests of minorities, including rural minorities. Toward that vital goal, we urge the California Legislature to memorialize Congress to call a constitutional convention to deal with the apportionment problem.

[From the San Jose News, Aug. 7, 1964]

A RATIONAL PROPOSAL ON REAPPORTIONMENT

A controversial and far-reaching decision by the U.S. Supreme Court sometimes is followed by a rash of countermeasures, usually in the form of constitutional amendments, which mercifully are allowed to suffocate in congressional committee pigeonholes.

In the heat of controversy, proposals sometimes are made that, if enacted, would weaken the very institution the proponents seek to protect, the U.S. Constitution.

Before Congress now, however, is a rational plan for countering portions, but not all, of the Court's latest stand on legislative apportionment.

Coauthorized by Representative CHARLES S. GUBSER, a Republican, of Gilroy, this constitutional amendment would not affect the Court's insistence that cities be fairly represented in State legislatures. That principle is a sound one.

What the Gubser amendment would do is enable a State to follow the Federal Government's example of having one house apportioned strictly on a population basis and the other apportioned along lines dictated by geography and other factors.

The U.S. House of Representatives and the U.S. Senate are organized in accordance with such a formula. So is the California Legislature.

This is not a demote the Supreme Court or impeach Earl Warren amendment. It is a proposal to retain a system that has worked well at the Federal level and in those States which have used it.

EXHIBIT 1

THE CALIFORNIA SENATE RECORD ON URBAN LEGISLATION

The Supreme Court decisions on reapportionment have been hailed by many metropolitan newspapers as a victory for cities. The requirement that the seats in both chambers of a bicameral State legislature must be apportioned on a population basis supposedly will give the metropolitan areas of States relief from the oppression of rural dominated legislatures and an opportunity for the majority representing heavily populated cities to accomplish social objectives heretofore rejected by rural representatives. The record in California during the past 30 years will demonstrate that the theoretical approach of the Supreme Court justices in rewriting our Federal Constitution and torturing the equal protection clause ignores both the genius of the Federal system of checks and balances and the facts in a State which, during the past 30 years, has changed more quickly from a rural to an urban State than any other State in the Union.

Counties have simply been used as one of several devices to accomplish the same result within each State guaranteed to the Federal Government by the U.S. Constitution. In order to achieve the same stable government within each State, consideration has been given to history, economic or other group interests, area, geographic considerations, etc. The people of California, voting in absolutely free elections—where every man's vote was given precisely the same weight—have five times in the last two and one-half decades approved and insisted upon this theory of bicameralism.

Thus, the people of our State have not only taken the Federal system which has been an example to all of the free countries of the world but they have improved on that Federal system by making it absolutely certain through the initiative that a willful minority may never completely control mature and deliberate decisions made by the majority.

As indicated at the outset, the record of the senate of the State of California on legislation of major interest to cities in metropolitan areas has been both responsive and farsighted. The following is a list, year-by-year since 1933, which demonstrates results rather than tenuous theory:

1933

S.B. 563 (ch. 767) gas tax allocation (one-fourth cent State highways) provided one-fourth cent for State highways within cities. To be used for acquisition, construction, maintenance, or improvement. If State highways, adequate funds available for major streets. Delegation of expenditure to cities and accumulation authorized. This is the first time in the history of the State that gas tax was spent inside of cities and the program was initiated by a "rural" senate.

1935

S.B. 919 (ch. 330) Alcoholic Beverage Control Act (50-percent gross fines) replaced earlier State Liquor Control Act and made provisions for recognizing valid zoning ordinances, notice of license applications, and closing of bars on election days. Authority to keep liquor establishments out of certain zones was essential to the orderly and moral growth of cities.

Substituted 50 percent of gross fees for 60 percent of net fees after administration and enforcement had been deducted. Made specific provision for disposition to cities of fines and forfeitures where imposed by city and courts.

S.B. 561 (ch. 642) gasoline tax allocation (one-fourth cent major streets) provided for additional one-fourth cent for major city streets and required submission of a budget. This was the first recognition of the great need for improvement of city street systems.

S.B. 1119 (ch. 362) In lieu tax: As first enacted gave cities 25 percent and counties 12½ percent. The in lieu tax is a State license tax in lieu of local property taxes, and (as will be noted below under the year 1947) all of the proceeds now amounting to about $130 million annually are distributed equally to counties and cities. This early recognition of the financial problems of cities is repeated again and again in the following years.

S.B. 586 (ch. 260) Utility property assessment (Valuation division): Made provision for equalizing assessments to correspond to assessment of other property by a city.

S.B. 239 (ch. 273) Contracts for fire protection: Authorized cooperative contracts with fire districts and protected firemen operating outside of city.

1937

S.B. 539 (ch. 717) Special fund for capital outlays: Authorizes transfer of surplus funds, or levy of taxes to "Capital outlay" fund and funds to be transferred, raised or accumulated must be spent for single purpose unless released by two-thirds vote of people.

1939

S.B. 514 (ch. 297) Annexation of uninhabited territory: New act to replace act repealed in 1937. Provides for annexation after hearing where there is no majority protest. A major urban growth problem was and continues to be ample authority for orderly expansion. This measure was the first of several to give cities additional annexation authority.

S.B. 1194 (ch. 1026) Codification of ordinances: An act recognizing a basic internal need of our largest cities with numerous and conflicting ordinances.

S.B. 19 (ch. 231) Illegal parking (Presumption): An act which placed the burden on the owner of an illegally parked vehicle to show that he did not park the vehicle. Without this authority traffic strangulation in major metropolitan areas would have immediately followed. No such need existed in the "rural" areas.

1941

S.B. 425 (ch. 339) County aid to cities: Streets. Authorizes county aid for street work and ordinance to provide conditions upon which allocation shall be made.

1942

S.B. (ch. 1) Emergencies—war use only: Provided authority to expend funds or use property or personnel to meet any emergency created by war or sabotage.

1944

S.B. 48 (ch. 47) Plans and sites: One of the most farsighted measures ever adopted by our legislature (and initiated by the senate) granting cities $10 million to prepare plans and specifications for public works which could not be built during the war but which would be absolutely essential after the war. This was followed in 1946 by a $90 million matching construction program which, although assembly initiated, was carried over the Governor's veto as a result of senate leadership. (Incidentally, this was the only override of an Earl Warren veto during the time he was Governor of the State.)

1945

S.B. 586 (ch. 932) Hospital districts: An act desperately needed in the postwar years to provide hospitals in both urban and suburban California.

S.B. 1302 (ch. 1024) Disaster act: An act which still serves as a model for many States in the establishment of a working organization to cope with any type of manmade or natural disaster.

1947

S.B. 1351 (ch. 712) Liquor license fees: Increased the allocation to cities of liquor license fees from 50 percent of gross to 100 percent of the amount actually collected within cities.

S.B. 712 (ch. 777) Gasoline tax: The largest single increase ever made in allocation of gasoline taxes to cities by the State assuming the entire cost of extension of State highways through cities and, in addition, increasing the annual allocation for city street purposes.

S.B. 1593 (ch. 1168) In lieu tax: As indicated above, this is a major source of municipal revenue received without strings where the cities get one-half of the total amount of vehicle license fees which are in lieu of local property taxes on such vehicles.

S.C.A. 14.—Ballot Proposition 18 (ch. 173) Reimbursement for tax exempt property.

1949

S.B. 20 (ch. 1147) Separation of grade districts: Facilitating construction of grade separations by areawide financing.

S.B. 246 (ch. 1481) Added sec. 25643 to Gov. C. County structural fire tax: Excepting cities from county structural fire tax, and thereby relieving cities from unfair taxation.

S.B. 851 (ch. 1488) 1941 sewer and sanitation—revenue bond law: Revenue bonds for water. Prior to this time, cities were without authority to construct or expand such essential facilities except through the issuance of general obligation bonds requiring a two-thirds vote. By this time, California was growing at an astonishing rate, and every method of financing including the one listed immediately below had to be utilized. Here again, we find rural recognition of urban needs.

S.C.A. 33 (ch. 195) Pledge of parking meter revenues: To finance acquisition of offstreet parking facilities.

1951

S.B. 282 (ch. 633) Special census: Authorizing special census by cities for gas and in lieu tax purposes.

S.B. 914 (ch. 738) Use tax authority for sixth-class cities: Broadening and diversifying local tax base. This act was essential to

the levy of both sales and use tax by cities and was subsequently followed in 1955 by the Bradley-Burns Act. This latter proposal which was opposed by farmers and agricultural interests now produces in the neighborhood of $300 million a year for local government. It is the major reason the metropolitan cities of California have been able to meet some but not all of their growth problems.

1953

S.B. 900 (ch. 526) 1941 revenue bond law: To include garbage collection, ferry systems, parking, swimming pools, and terminal facilities within revenue bond financing authority of cities.

S.B. 1100 (ch. 1582) Distribution of fines and forfeitures: Under inferior court reorganization cities are guaranteed no loss of revenue as a result of losing city courts.

S.B. 1159 (did not pass) County and city affairs commission: Showed recognition of metropolitan area problems. Measure would have provided a forum to consider local intergovernmental relations problems.

1955

S.B. 278 (ch. 703) Reimbursement agreements in subdivisions for drainage: Extended sewer financing principle to storm drainage.

S.B. 1268 (ch. 1440) OASI coverage for public employees: Made basic social security coverage available for first time to many city and other public employees.

S.B. 1971 (ch. 1890) Engineering and administration allocation of gas tax: Engineering and administrative allocation of gas tax to cities based on population.

1957

S.B 1234 (ch. 1696) Urban renewal authority: Very important legislation for metropolitan cities.

S.B. 2208 (ch. 2091) Grade separation: Five million dollars allocated annually to cities from gas tax for grade separation. Construction costs to reduce accident toll from railroad crossing accidents by speeding up construction.

S.B. 933 (ch. 1651) Aircraft operation—zone of approach: Helpful to airport-owning cities in metropolitan areas.

S.B. 244 (ch. 1989) Community mental health act (Short-Doyle Act): A precedent-setting step forward in establishing programs for outpatient care of the mentally disturbed.

S.B. 2175 (ch. 2376) State participation in Federal beach erosion control projects: Helpful to southern beach areas.

S.B. 2110 (ch. 2375) Loans for small craft harbors.

S.B. 2107 (ch. 2362) Small craft harbors division.

1959

S.B. 1461 (ch. 1658) Authorization for acquisition by counties and cities of open spaces: Open space is most needed in and around congested metropolitan areas.

S.B. 703 (ch. 1102) Revision and streamlining of Community Redevelopment Act: The most important urban renewal legislation in California since the act was adopted in 1945.

S.B. 5 (ch. 822) $750,000 annually to small craft harbor revolving fund: Most municipal small craft harbors are now financed with this fund.

S.B. 931 (ch. 1598) Small Craft Harbor District Act.

S.B. 169 (ch. 2157) Distribution of rentals from State freeway acquisitions to taxing agencies.

S.B. 20 (ch. 6) Extension of ½-cent gas tax (imposed in 1953 and due to expire in 1959). Act enables State to continue with freeway construction program in urban areas.

1961

S.B. 1031 (ch. 1404) Municipal tort liability: Postponed for 2 years the effect of a California Supreme Court decision making cities liable in all cases where an individual would be liable for negligent acts. Permitted the legislature to consider governmental problems which would arise if liability made government unable to govern.

S.B. 1294 (did not pass) Local option in lieu tax: This measure would have helped cities eliminate several billion dollars of critical street deficiencies. The bill was approved by the senate and defeated by the assembly notwithstanding the fact that 80 percent of the money would have been spent within metropolitan areas.

S.C.A. 26 (did not pass) Telephone gross receipts tax: Would have given cities 1 percent of telephone gross receipts or $9 million annually. Approved by senate and defeated by assembly.

S.B. 1522 (did not pass) Withdrawal from park and recreation districts: Would have permitted city territory to withdraw from park and recreation districts. It would have eliminated dual taxation on property owners by both district and city when service is provided only by city. Approved by senate and defeated by assembly.

1963

S.B. 344 (ch. 1852) Gasoline tax: This unquestionably was one of the most important measures for metropolitan cities considered during the 30-year period we are covering. City receipts from gasoline taxes were more than doubled and, as a result, critical deficiencies on congested city streets are now being corrected. The measure will produce about $76 million annually, in addition to revenues already received by local government.

S.B. 42 et seq. (ch. 1681 et seq.) Municipal liability: These bills spell out in detail the nature and extent of municipal tort liability. It would have been impossible to continue to operate municipal jails, police departments, fire departments, and so forth, without such legislation.

In the 1963 session, as well as others, there is no question but that bills beneficial to urban interests were initiated in a house (assembly) districted largely on the basis of population but in every case these measures had to be approved by the senate. This was true of the State water program and the Rumford Fair Housing Act.

In his Legislative Review, dated July 18, 1961, the executive director of the League of California Cities concluded:

"Both offensively and defensively the so-called rural senate and its committees showed more understanding of and sympathy toward bills of interest to cities than did the urban assembly. Contrary to popular belief this is not unusual. This year, more than ever before, the assembly showed an alarming disregard for the principles of home rule and the needs of cities. This is not true of all assemblymen nor is the outstanding senate record true as to all senators but it is a completely accurate statement as to a majority of the members of each house. The proof is in the final history."

On the negative side, we can only state that almost all bills which would infringe on the right of cities to control their own internal affairs originate in the assembly, and where successful, they have been defeated in the senate where there is much greater recognition of the rights of city councils to control their own internal operations. One need only examine measures to decrease the hours of firemen, increase vacation periods of firemen and policemen, preempt certain fields of taxation, preclude local exercise of the police power, and restrict the right of cities to enact their own land use regulations.

A wide variety of tax exemption measures (narrowing both the property and sales and use tax bases which are the principal source of revenue of local government) originate in the assembly. When successful in the assembly, they have been defeated by the senate. There can be no greater threat to urban and metropolitan municipal home rule than to make our cities dependent upon the State for adequate revenues with which to provide a minimum standard of municipal services.

In short, the record is clear that the concentration of power in the State and the regulation of the right of cities to control their own affairs stems from legislators who represent metropolitan areas.

Finally, it should be noted that in the Senate of the State of California, as now constituted, 17 of the 40 senators represent metropolitan areas as listed by the U.S. Bureau of the Budget as standard metropolitan areas. This means that 42 percent of the present senate represents the metropolitan or predominately urban areas of California. Because California has grown so rapidly, senators representing once rural areas now represent heavily populated areas even though their districts have not been changed.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MONDALE in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to Senate Joint Resolution 66, as amended by the Dirksen amendment, as modified.

Mr. MANSFIELD. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. What are we voting on?

The PRESIDING OFFICER. The Senate will be voting on Senate Joint Resolution 66 as amended by the Dirksen substitute, as modified.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

The question is on agreeing to Senate Joint Resolution 66 as amended by the Dirksen substitute, as modified.

On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMINGTON (when his name was called). On this vote I have a pair with the senior Senator from Minnesota [Mr. MCCARTHY]. If he were present and voting, he would vote "nay." If I were per-

mitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. LONG of Louisiana (when his name was called). In view of the fact that this is a vote on a question which requires a two-thirds vote, I am paired, together with the Senator from Missouri [Mr. SYMINGTON], with the Senator from Minnesota [Mr. MCCARTHY]. If the Senator from Minnesota were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. LONG of Louisiana. I announce that the Senator from Arizona [Mr. HAYDEN] is absent on official business.

I further announce that the Senator from Minnesota [Mr. MCCARTHY] is necessarily absent and his pair was previously announced.

The yeas and nays resulted—yeas 57, nays 39, as follows:

[No. 204 Leg.]

YEAS—57

Aiken	Fong	Mundt
Allott	Fulbright	Murphy
Bartlett	Gruening	Pearson
Bennett	Harris	Prouty
Bible	Hickenlooper	Robertson
Byrd, Va.	Hill	Russell, Ga.
Byrd, W. Va.	Holland	Russell, S.C.
Cannon	Hruska	Saltonstall
Carlson	Jordan, N.C.	Scott
Church	Jordan, Idaho	Simpson
Cooper	Kuchel	Smathers
Cotton	Lausche	Smith
Curtis	Mansfield	Sparkman
Dirksen	McClellan	Stennis
Dominick	Metcalf	Talmadge
Eastland	Miller	Thurmond
Ellender	Monroney	Tower
Ervin	Morton	Williams, Del.
Fannin	Moss	Young, N. Dak.

NAYS—39

Anderson	Inouye	Morse
Bass	Jackson	Muskie
Bayh	Javits	Nelson
Boggs	Kennedy, Mass.	Neuberger
Brewster	Kennedy, N.Y.	Pastore
Burdick	Long, Mo.	Pell
Case	Magnuson	Proxmire
Clark	McGee	Randolph
Dodd	McGovern	Ribicoff
Douglas	McIntyre	Tydings
Gore	McNamara	Williams, N.J.
Hart	Mondale	Yarborough
Hartke	Montoya	Young, Ohio

NOT VOTING—4

Hayden	McCarthy	Symington
Long, La.		

The VICE PRESIDENT. On this vote the yeas are 57 and the nays 39. Two-thirds of the Senators present and voting not having voted in the affirmative, the joint resolution, as amended, is rejected.

Mr. DOUGLAS. Mr. President, the vote today on the proposed constitutional amendment, was, I believe, a real vote for the American people. It should enable the decisions of the Supreme Court to be carried into effect in the various States. The result will be, I believe, a very healthy increase in the vigor of State legislatures and in the degree of actual representation which they will give to the people.

It should also lead to less dependence upon the Federal Government and more work on the State level.

I thank all those who participated in the debate. Especially, I wish to single out for praise the two whips, who helped us very materially, the Senator from Wisconsin [Mr. PROXMIRE] and the Senator from Maryland [Mr. TYDINGS]. Their services were above and beyond praise. We are deeply indebted to all those who worked hard and who stood firm amidst the tremendous pressures which were placed upon them.

I also pay tribute to the minority leader, my colleague from Illinois [Mr. DIRKSEN], with whom I differed very sharply on the question before the Senate, but who was not only courteous, but also extremely fair in the allocation of time and in the conduct of the debate.

I thank the majority leader also for his courtesy in the matter.

In short, I believe this has been a good day for the American people.

VIETNAM—THE IMPEACHMENT OF THE PRESIDENT

Mr. MORSE. Mr. President, yesterday I said in a speech on the floor of the Senate:

Mr. President, in my trip across the country and back since I spoke on the floor of the Senate last Wednesday, I have been alarmed by the rising denunciation of the President and his administration for their Vietnam policy. I have heard the word "impeach" used more often in the last week than I have heard it since President Truman sacked General MacArthur. I have been asked by more people than I would have thought possible if there is not grounds for impeachment of the President, and how the process can be set in motion. I have been advised about petitions that have been circulated and hundreds of people are signing asking for the President's impeachment.

Much of this talk stems from objections to a war being undertaken without congressional declaration. Most of these people see the President as waging an executive war, in violation of the Constitution. They think the impeachment clauses of the Constitution must apply to such a case.

Then I went on to make a statement as to why, in my judgment, Congress should not adjourn sine die but should remain in session until January 1. I pointed out that we should remain in session and carry out our constitutional responsibility of serving as a legislative check upon executive action.

There are those, judging from the interviews with the press today, and from telephone calls that the senior Senator from Oregon has received, who interpret my remarks as indicating that I advocate the impeachment of the President.

Of course, such an interpretation is nonsense.

Mr. President, I have been receiving a great deal of mail in regard to this matter and many people have talked to me at meetings at which I have spoken in opposition to the President's war in Vietnam. I have been answering all of the mail on the impeachment matter with a letter that contains these two paragraphs. I read two paragraphs from a letter dated July 6, 1965. I have sent similar letters before and since that time:

In your letter, you asked me for my views concerning your suggestion that steps should be taken to impeach President Johnson and perhaps some other officials. It is my view that such an impeachment attempt would be a very serious mistake. All it would do would be to divert attention away from the basic issues involved in American foreign policy in Asia and center attention on President Johnson, as an individual. It would cause many people who disagree with his foreign policy to rally behind him, because they would consider such a movement to be an ad hominem approach. Attacking Johnson, personally, will not change his course of action, and it will not win supporters for a change of foreign policy in Asia, but to the contrary, it will drive supporters away.

In my opinion, there is no question about Johnson's sincerity or his patriotism or his desire for peace. It is Johnson's bad judgment and mistaken reasoning in respect to the war in Asia that constitute the basis of the crucial problems that confront us in trying to get a change in Johnson's policies in Asia. To attack him, personally, by proposing impeachment would be the most serious personal attack that could be made upon him. It would rally the Nation behind him and result in his policies being escalated into a major war at a much faster rate. Those of us who oppose Johnson's foreign policies must meet his views on their merits. We should never attack him, personally.

I wish the record to show that this letter represents the position the senior Senator from Oregon has taken in all correspondence on the subject. Also it represents my answers to questions on impeachment at all rallies I have attended, and in all my conversations with those who urge impeachment of the President.

Those that I have talked to and who have written to me suggesting impeachment of the President are not extremists in the sense that they are irresponsible persons. Many of them are on the faculties of American universities. Many of them are out of the professional life of our Nation.

I have no intention of joining them in such a program. Nevertheless, I believe it is a significant fact that there is growing discussion in this country of an attempt to stop the President from his illegal war in southeast Asia, even to the extent of circulating impeachment petitions.

Mr. LAUSCHE. I believe it is indefensible and cruel for any person to talk about impeaching the President of the United States with respect to our part in South Vietnam.

It has just been stated that professors are urging and circulating petitions for the impeachment of the President. What does that mean?

Does that mean that professors of our universities are gifted with infallibility?

The President has tried with all his might to bring about an understanding that would end the shooting and the carnage in South Vietnam. Eleven important measures have been proposed by him, any one of which, if it had been adopted, would have brought to an end the carnage.

With respect to impeaching the President, I have had letters in the last 8 years asking for the impeachment of President Eisenhower and the impeachment of President Kennedy after the Bay of Pigs debacle. Those letters come to us and I do not attach significance to them.

In my judgment, the President of the United States is bogged down by a weight so great that it has never been equal to that imposed upon any ruler in a republic or in a monarchy in the history of the world.

The President of the United States is attempting to carry that burden courageously. He is trying to achieve peace by the proposal of negotiations to the extent that, rather than be attacked on the ground that he does not want peace, he ought to be attacked because he is going too far in surrendering to the opponents of our system of government.

Mr. MORSE. I merely wish to say in reply to the Senator from Ohio that it is not at all surprising for people in the country who think the President is following an unconscionable and illegal course of action in South Vietnam to turn to the Constitution and look for what procedural protection they have. They have a perfect right to turn to the impeachment procedure. I believe that they are making a great mistake in judgment. I, of course, would defend them in their right to exercise their constitutional rights. But, in one sense, I should like to say to the Senator from Ohio that until the President follows his constitutional obligation by coming before this body and ask for a declaration of war, the President is engaged in an illegal war. It is a war now conducted by the Chief Executive, in South Vietnam without a scintilla of constitutional right. This Congress is likewise guilty of violating its duties under the Constitution by seeking to delegate to the President a power that it cannot constitutionally delegate. It is the duty of the Congress under article I, section 8, either to declare war or to stop the President from slaughtering American boys in southeast Asia. I have no doubt that impeachment talk will increase if the President continues to conduct an unconstitutional war.

Mr. LAUSCHE. I have had no letters asking for the impeachment of President Johnson; I have had a thousand letters asking for the impeachment of Chief Justice Warren. I have disregarded the latter. I think we ought not to be talking about impeaching the President of the United States.

On the face of the President's effort to achieve peace and the preservation of our country and his courageous handling of a most difficult challenge to our security, we should not speak of impeaching but rather helping the President in the solution of a backbreaking problem that no individual ought to carry.

The President needs and is entitled to help, but not to the cruel and shameful threat of impeachment.

NATIONAL OCEANOGRAPHIC COUNCIL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 511, Senate bill 944.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 944) to provide for expanded research in the oceans and the Great Lakes to establish a National Oceanographic Council and for other purposes.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment.

VOTING RIGHTS ACT OF 1965— CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1564) to enforce the 15th amendment to the Constitution of the United States, and for other purposes. I ask unanimous consent for the present consideration of the report.

The VICE PRESIDENT. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of August 3, 1965, pp. 19187–19191, CONGRESSIONAL RECORD.)

The VICE PRESIDENT. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MANSFIELD. Mr. President, I urge Senators to remain in the Chamber so that we may expedite action on the pending question if it is at all possible.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HART. Mr. President, the conferees on the voting rights bill have, following some six meetings, reported what I believe can be described as a strong bill.

There would be 100 versions of this bill, I assume, if each of us were a czar, but I believe the conference recommendation will be regarded as an effective bill and one which will bear the test of time well.

There were really two significant disagreements and attention-gathering features of the bill. I believe it fair to say, on both of these, that the Senate position is reflected in the conference report.

The section on American-flag schools, the so-called treatment of Puerto Ricans, is as the Senate adopted it.

The treatment of the poll tax, I believe, fairly could be said to be substantially as the Senate adopted the provision. The conferees on the part of the House sought very strongly to retain——

The VICE PRESIDENT. Will the Senator withhold?

The Senator is entitled to the consideration of the Senate. This is a very important matter. The Chair asks those in the rear of the Chamber to please refrain from conversation and find themselves comfortable chairs. If they cannot, please exit.

The Senator from Michigan may proceed.

Mr. HART. It will be recalled that the House of Representatives treated the poll tax by outlawing it.

We made a finding that both the 14th and 15th amendments appeared to be abused and breached, and directed that the Attorney General promptly file suit in such cases. This is the approach agreed on in conference.

Additionally, provision was made for the payment of poll taxes during the pendency of the judicial decisions, in the event decision had not been reached within 45 days of any election.

Perhaps the third most significant item of disagreement is what we in this Chamber know as the Long amendment.

Here provision is made for a county which enrolls at least 50 percent of the nonwhite eligible to come to the U.S. District Court in the District of Columbia, make a presentation satisfactory to the court that more than 50 percent are enrolled, and that no discriminatory practices are being engaged in. On that showing and finding by the court, the examiners, if any have been appointed, are removed.

The conference report additionally requires, as the Senate bill did, that if a court finds that a test or device has been abused in any jurisdiction under section 3, it shall suspend all tests and devices in that jurisdiction.

Additionally, the so-called triggering provision of the legislation reflects the House approach.

We provided that if less than 50 percent of those eligible in a State or political subdivision voted last November, and at least 20 percent of the population was not white, a suspension of the tests and devices would apply.

The 20-percent limitation was dropped in the conference, and tests and devices are suspended upon a showing of less than 50 percent voting.

The sanctions of the bill, the protections of the bill, are extended to those who aid and assist others in seeking to register and vote, thus protecting any registration drive that might occur.

The provision that was added by the Senate seeking to make automatic the introduction of examiners in an area without tests or devices where less than 25 percent of the nonwhites have registered—and I regret to say this—was eliminated by the conferees.

Section 18 of the Senate bill was dropped since it was related specifically to the State of Arkansas, where particular problems arose as a result of the 25-percent trigger provision of the Senate bill and a complete new registration requirement under the Arkansas constitution.

The Senate, in passing the bill, permitted the Attorney General to require, in his discretion, that anyone seeking to register with a Federal examiner first go to a local examiner and allege that he had been denied. This provision was dropped.

Further, we suggested as desirable, though did not direct or require, that examiners be selected from persons resident in the political unit in which they would serve. This is not embodied in the conference report.

The reach of the bill is extended to the selection of party officers, as the House version provided.

The voting title of the 1964 Civil Rights Act is amended to extend to State and local elections.

As is always the case, there were disappointments, I am sure, on the part of both groups of conferees. I repeat, however, that it is our feeling that the bill as developed by the committee of conference represents an adequate, effective response to a problem which, if left unresolved much longer, could bring disaster on us all.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. HOLLAND. I voice my appreciation of the action of the conferees in standing, as they apparently did, rigidly back of the verdict of the Senate, although by a close vote, against any approach to a repeal of local and State poll taxes by way of Federal statute. I realize that the conferees were of varying convictions upon that subject. But the expression of the Senate was quite clear on that subject, and I congratulate the conferees upon having stood their ground on this matter.

Also—and I am not saying this entirely facetiously—I believe the distinguished conferees have saved themselves and the Senate a good bit of time by taking that very correct and loyal position. I thank the Senator from Michigan for having in that respect stood sturdily by the expression of the Senate, which he was standing for and representing in conference.

Mr. HART. I thank the Senator from Florida, who recognizes that in this particular instance the position that we as conferees took did not happen to represent the position I took when the subject was before the Senate.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. GRUENING. I should like to ask whether the conference report omits the provision that the military would be counted in Alaska.

Mr. HART. It is my impression that there is no disagreement.

Mr. GRUENING. How does that leave us? We Alaskans thought it unfair to discriminate against us in that respect.

Mr. HART. The bill remains as the Senate passed it. It is my impression that this provision was not in disagreement and therefore this rules out a matter before the conferees.

Mr. GRUENING. I thank the Senator from Michigan.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. MILLER. First, I commend the Senator from Michigan for his able work in the conference, and particularly for preserving the Senate version with respect to false registration. I refer the Senator to section 11(c), on page 7 of the conference report, the so-called clean elections amendment which the Senator from Delaware [Mr. WILLIAMS] and I sponsored. I notice that a slight change has been made in conference in the wording of the language as passed by the Senate. I refer the Senator from Michigan to the proviso:

Provided, however, That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, or Delegates or Commissioners from the territories or possessions, or Resident Commissioner of the Commonwealth of Puerto Rico.

Do I correctly understand the meaning of this provision to be that if there is to be an election, let us say, for Governor of a State, or for State legislators, and also, at the same time, there is to be an election for a Member of Congress, this provision would apply due to the "in part" language that was provided by the conferees?

Mr. HART. The impression or interpretation voiced by the Senator from Iowa is the understanding of the conferees. I should explain that this is what we knew as the Williams of Delaware amendment. It was added as an amendment offered by Representative CRAMER to the House bill. The conference has consolidated this language as a fair summary of the two versions. Except for technical variations, I believe it represents the amendment of the Senator from Delaware [Mr. WILLIAMS].

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. WILLIAMS of Delaware. I thank the Senator from Michigan. He is correct. The conferees retained the Williams amendment which was cosponsored by Senator MILLER, Senator MURPHY, and Senator SIMPSON. With the possible exception of a grammatical change, it is the amendment exactly as adopted unanimously by the Senate. I am delighted that it was included in both the House bill and the Senate bill. This was the so-called clean elections amendment.

For the first time, we shall now have spelled out in the Federal law that penalties are applicable to anyone who willfully gives false information to a registrar for the purpose of establishing his eligibility to vote. This is a highly important section of the bill. While we subscribe to the right of every person to vote, we want to make certain that when he votes he casts a legal ballot and that his vote is properly counted.

Likewise, this amendment makes it a Federal crime for anyone to pay or offer to pay any individual either to register or to cast a vote and the same penalty applies to anyone who accepts such payment for voting.

This penalty is applicable in any election where the name of a candidate for a Federal office is on the ballot. This is an important part of the bill. I am delighted that it has been retained by the conferees. This new provision should help us to promote cleaner elections.

Mr. HART. It was certainly our intention to preserve it as the Senator from Delaware intended.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that section 11(c), which was the so-called Williams amendment, be printed at this point in the RECORD. This amendment was cosponsored by the Senator from Iowa [Mr. MILLER] and the Senators from California and Wyoming [Mr. MURPHY and Mr. SIMPSON].

The VICE PRESIDENT. Without objection, it is so ordered.

The section ordered to be printed in the RECORD is as follows:

SEC. 11. (c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, or Delegates or Commissioners from the territories or possessions, or Resident Commissioner of the Commonwealth of Puerto Rico.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. HRUSKA. As one of the conferees, I voted in favor of the conference report, not because I favored all of its provisions—I think that was the case with all the rest of the conferees—but because it represented a compromise, a give and take, on the various points. This is inherent in legislation.

However, there is one particular provision upon which I reserve the right to comment briefly, and that is section 4(e), which has to do with the declaration by Congress.

That to secure the rights under the Fourteenth Amendment of persons educated in American-flag schools in which the predominant class room language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

That language, of course, has particular reference to the situation in New York. Since 1920, that State has had a law on its statute books providing that if a person is not qualified to read, write, understand, or interpret matter in the English language, he would not be qualified to vote. That law, as we know, has particular reference to the large segment of Puerto Rican population in New York City and New York State.

The reasons why I was opposed to this provision are, first, that it is a matter for the State itself to deal with; it is of doubtful constitutionality for Congress to override this law. It is very important that a knowledge of the English language be possessed by a voter.

Supporting evidence of this fact was found in the record. In the next general election in that State, there will be some 20 or 25 propositions on the ballot for the purpose of amending the New York State constitution. Without a

knowledge of the English language, it would be virtually impossible for voters even to identify the amendments, let alone to scan them for the purpose of determining their substance and merit. For that reason, and for others, this Senator certainly disagreed with that provision.

One of the further arguments is that the national policy is that there be common access to the facts and that the knowledge of English is necessary to discharge the responsibilities of citizens.

We know that, because in order to become naturalized one must have a working knowledge of the English language. It is necessary to have that knowledge for the purpose of serving on a jury.

There are other reasons. However, I shall not go into them in any detail. Considering the compromise nature of any conference bill and any major piece of legislation, I was somewhat influenced by the size of the vote on the so-called Puerto Rican amendment. The vote was 48 for and 19 against, with 33 not voting. The presumption is that, had all Senators been present and voting, there would have been an overwhelming vote in favor of section 4(e) and the related parts thereof.

For that reason, I felt constrained in my capacity as a conferee to uphold the sentiment of the Senate as it had been expressed in that vote.

I take advantage of this opportunity to commend the chariman of our conference committee for his patience and persistence, not only during the hearings, but also during the sessions of the conference committee as well.

Mr. HART. Mr. President, I thank the Senator from Nebraska.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. KENNEDY of New York. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. KENNEDY of New York. I would like to ask the Senator a question concerning the meaning of the word "demonstrates" in section 4(e) of the bill. The Senator from Michigan was one of the conferees, and would therefore be aware of the intent of the conference committee in agreeing to include section 4(e), which was not contained in the House version of the bill. Would it be correct to say that the demonstration which one must give of one's educational attainment in order to invoke the provisions of section 4(e) is not limited to production of a diploma or certificate, but can also be satisfied by an oath or affirmation of the requisite educational attainment, made at the time and place of registration?

Mr. HART. The Senator is correct. Section 4(e) contemplates that a potential voter may demonstrate his educational attainment by oath or affirmation made when he comes to register.

Mr. JAVITS. Mr. President, I should like to ask a question of the Senator from Michigan.

I gather that the so-called 25-percent trigger the device to invoke the provisions of the bill in an instance in which less than 25 percent of the Negroes in a particular political subdivision were registered to vote—was dropped from the bill. Is that correct?

Mr. HART. The Senator is correct. As I say, I regret to report that.

Mr. JAVITS. Will that, therefore, result in the bill's failure to reach the States of Texas, Tennessee, and Florida? That situation—less than 25 percent of the Negroes voting—occurred in some parts of those States.

Mr. HART. As the Senator from New York well knows, those States and all other States are subject to the reach of the bill in section 3. However, the automatic device that was provided by the 25-percent formula, or the Javits amendment, is not now available under the conference report.

Mr. JAVITS. So the fact is that in those particular areas in which that trigger would have worked, we must resort to litigation which has proved unsatisfactory before.

Mr. HART. The Senator is correct. It was the opinion of the Department of Justice that, in such fringe areas, because they are relatively smaller in number, their litigation road under section 3—which I think all of us recognize to be a simpler road than the existing law provides—would make it possible to reach them effectively.

I shared the hope of the Senator from New York that the 25-percent device might be available. However, we were unable to retain that amendment.

Mr. JAVITS. I express my disappointment that that was not done. A suspicion was sought to be created that that was omitted because it pertained to the State of Texas. I do not join in that suspicion.

I have the greatest faith in the efforts of the Senator from Michigan to have that particular provision adopted by the conference.

I believe, also, that the Department of Justice will, with fairness and impartiality, pursue these cases under section 3 wherever they arise.

I am very much disappointed that those parts of States will not be reached because the trigger has been stricken out.

Could the Senator teli us whether, by virtue of the Long amendment, which, in the other body, was the Boggs amendment, we are letting out any specific parts of States which, when the bill left the Senate, we believed the triggering device would reach, aside from the 25-percent provision?

Mr. HART. The answer is "No." For the clarification of the record, the House had rejected the amendment offered by Mr. BOGGS. The bill, as it left here, contained the Long amendment which, as we understood at the time, would permit counties which established the 50-percent factor and persuaded the U.S. Court of the District of Columbia that discriminatory practices had been eliminated, if any had existed, would be able to have the examiner removed. There was no change with reference to the Long amendment in conference.

Mr. JAVITS. Mr. President, it can be truthfully said that the Long amendment represents a bonus for substantial additional effort and does not represent a windfall to counties which should not have a windfall because they have not done the job that needs to be done in allowing Negroes to vote.

Mr. HART. The Senator from New York puts it very effectively. It is a device to persuade and to encourage the application of nondiscriminatory practices. It represents a bonus in that sense, as the Senator described it.

Mr. JAVITS. I wish to say a word about the so-called Puerto Rican amendment. That is the amendment which would affect New York, particularly with respect to the voting of those who took their instruction, within the grades specified, in American-flag schools in which the predominant language was other than English.

Some have construed what I did with respect to that amendment as being very unwise politically on the ground that thousands of Puerto Ricans will be allowed to vote in New York, and that they may not vote in the manner in which I would like to see them vote. That would be my problem if I could persuade them and if my friends and political colleagues cannot persuade them. However, I believe it is right that the franchise should be available to these people, as Puerto Rico is part of the United States.

Many citizens may feel that they want to participate actively in the political process. They were educated in schools within the American framework, and under the American flag. Yet, they are not permitted to participate in the political process.

However, I express the hope that everybody understands that the provision is imbedded in the New York State constitution and that, therefore, this is a very serious change so far as New York is concerned.

Second, the matter has already had rather sympathetic attention from the Governor and the State legislature of New York.

Governor Rockefeller signed a bill the other day to reduce the literacy requirement to a presumption of literacy after a sixth grade education for all, rather than an eighth grade education, which was the previous requirement. The bill would also create a presumption that those are qualified in literacy who were educated through the sixth grade in Puerto Rican schools, but who took the predominant part of their instruction in English.

So measurable progress was made in that regard. Also, I had hoped, as I have little doubt my colleague from New York [Mr. KENNEDY] had hoped, the legislature might have taken this matter in hand and dealt with it. But it dealt with it, as I pointed out, partially, but not sufficiently.

I feel that there is a great obligation on the part of those who have received the benefit of this provision. Knowing them as I do—and I know many who may be qualified to vote under this provision—I think they are diligently anxious to learn to write and speak English, as they do Spanish, as well as anyone in New York.

I believe they will justify our confidence in them by being equally literate before very long in the English language. This provision represents, to my mind, but an acceleration of what time would have taken care of. It is something which time would have corrected, but it would have denied these people the right to vote, notwithstanding that they are American citizens, for a period of perhaps 5 or 10 years.

I saw this process at work in my own personal life. My mother learned to read and write English when she was 55 years of age, in an adult education school. This is the very same spirit which animates those who will be covered by the amendment.

I express the expectation that the confidence of the Congress will be fulfilled by these fine, patriotic Americans; in that they will become sufficiently literate, not only in the Spanish language, of which they now have capability, but the English language as well.

Finally, I state to the Senator from Michigan that, as a member of the Judiciary Committee and as a Member of the Senate, though I am disappointed over loss of the 25-percent trigger provision, I applaud the legislation as a signal measure for this country. I refer to the need to correct conditions which in some parts of our country are shameful, outrageous, and shocking. The bill will deal with the great bulk of those conditions. I hope the Department of Justice will be bold enough, as it must be, to ask for the money and personnel needed to enable them to implement this statute.

Mr. HART. I thank the Senator from New York for his comments.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HART. I yield to the Senator from Florida.

Mr. HOLLAND. I want to say I have another reason now to congratulate again for action by the conferees; namely, the matter just mentioned by the Senator from New York. Of all the punitive provisions in the bill, at least from my point of view, and of all the unconstitutional provisions in the bill, at least from my point of view, the most punitive one was the 25-percent triggering provision, aimed, as the Senator from New York has suggested, at the State of Florida, among other States.

I want the RECORD to show how completely punitive it was. There are two small forest products counties in Florida which might have been affected by this provision of the bill. They have between them a population of only a little over 400 adult Negro citizens. Their standard of education, of course, is low in that type of county. There is no city in either of these counties, with a few Negro people scattered through the woods, camps, and the naval stores camps in those counties. There has not been anything in any report of the Civil Rights Commission remotely indicating any fraud, suppression, or intimidation of Negro registrants in those two counties.

I am grateful to the Senator and the other conferees for having yielded on this provision. I never heard of anything which was more clearly punitive, and, in the case of my own State, which leveled an accusing finger at the people of my State, which has for a long time given voting rights to all adult Negro citizens who availed themselves of the opportunity, without any test of education, or literacy, or poll tax, or other tax. All they have to do is to register and vote if they so desire. Over 300,000 of them do so.

I congratulate the Senator and the members of the conference for having yielded on that point in this bill.

Mr. KENNEDY of Massachusetts. Mr. President, will the Senator yield?

Mr. HART. I yield to the Senator from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. President, it has been less than 4 months since the Voting Rights Act of 1965 was introduced into the Congress. Since that time both the Senate and the House have worked diligently to see to it that this legislation moved through the Congress not only with speed but that it was strengthened in the process. I think it is a tribute to this Nation, and to the Congress, that what will be perhaps one of the most important pieces of civil rights legislation was so treated, and I am sure that the behavior of the Congress is an indication of the acceptance in this Nation of the basic assumptions of the bill.

Too many people have waited too long for this country to meet the responsibilities implicit in the 15th amendment. I do not wish at this time to in any way delay any further our final action here. But I do think it should be noted that as a result of the attention and diligence of many of my colleagues on the Judiciary Committee and in the Senate this legislation is stronger now and carries greater assurances of success.

I would note explicitly that in the area of the poll tax, the original proposal before us fully accepted the existence of this abridgment on the rights of our citizens and, indeed, sought to involve the Federal examiners in its collection. The members of the Judiciary Committee made a forceful case against this device and as a result brought to the floor a bill which completely outlawed the poll tax. We did this because, in our view, the presence of a tax on the right to vote carried with it a violation of the 14th amendment, both in terms of the equal protection of the laws provided by that amendment as well as the safeguards inherent in the due process clause. We also felt that the presence of this tax was a violation of the 15th amendment, for we knew the evil intent behind the enactment of such laws, and we knew that this tax fell heavy upon a class of citizens who had been discriminated against in an economic sense for the past century.

Mr. President, we were not successful in our attempt to ban the tax; the House of Representatives was successful.

We now have before us the results of the work of the conferees on the voting rights bill. They have dealt with the poll tax issue and in my view, while it is not all that I would desire, they have dealt with it well. The law now carries a strong finding by Congress that this tax violates rights guaranteed under the 14th and 15th amendments; there is an explicit recognition that Congress in its findings and in its direction to the Attorney General is duly exercising its powers under section 5 of the 14th amendment and section 2 of the 15th amendment; and the Congress calls for the courts to treat this matter in an expeditious fashion.

Mr. President, in all likelihood this action by the conferees will accomplish the task. It is the view of civil rights leaders that now "The poll tax is doomed." It is my hope, indeed it is my expectation, that the prophesy of the civil rights leaders will become a reality through the vigorous and timely action of the Attorney General to meet his responsibilities so strongly stated by the Congress.

Mr. President, I am proud that I had an opportunity to be involved with this legislation, and I am pleased to support the conference report. I am convinced that this bill will rank foremost in the achievements of this Congress and among any lasting of civil rights legislation.

Mr. HART. Mr. President, I thank the Senator from Massachusetts.

Mr. DIRKSEN. Mr. President, it may be unusual to compliment the House conferees at the same time we congratulate the dedicated Senator from Michigan, when there have been various objections to the conference report. But the chairman of the House conferees had a difficult task. In the first place, the House had voted for the tax poll provision. It was a pretty hard task to eliminate the poll tax provision after it had been nailed down in the House. On the other hand, we had in the Senate bill the so-called Puerto Rican provision, which had been nailed down in the Senate by a large vote—I believe 48 to 19. One can guess at the difficulties when the House conferees went back to the House and the conference report had no poll tax ban in it. If one wants to read some caustic remarks, read the CONGRESSIONAL RECORD when the matter was considered in the House and what Members of the House had to say to the chairman of the Judiciary Committee. I thought he did a magnificent piece of work. He was always ready to listen.

While I compliment the Senator from Michigan [Mr. HART] I bestow equal congratulations on Representative CELLER, of New York, for his fine service, and for coming forth with a favorable arrangement. He was charged with having stripped the bill. It is not easy to face it, because when I served on the Appropriations Committee, on occasion I was the only conferee, and the House Members would sit down and say, "We are not going back without our shirt." I would tell them to go back, and when they were ready to act like gentlemen, resume the conference. So I know the difficulties when one is dealing with a membership of 435. I compliment Representative CELLER and the distinguished Senator from Michigan for having gotten the bill out of conference, which I know was a difficult task.

Mr. HART. Mr. President, people across the country may wonder if all the things they hear about the Senator from Illinois' [Mr. DIRKSEN] abilities are true. If anyone had sat in the conference, he would recognize the great services the Senator has rendered in this field.

Mr. MANSFIELD. Mr. President, I could not let this historic occasion go by without noting the important bipartisan nature of the work on this measure. I want to give full credit to the distinguished junior Senator from Illinois, the minority leader [Mr. DIRKSEN], to the distinguished ranking Republican Representative on the House committee, Mr. MCCULLOCH, and to the distinguished Senator from Nebraska [Mr. HRUSKA].

I believe that this was a bipartisan effort of tremendous significance and, that both parties are entitled to a great deal of credit for their willingness to work hand in hand on an important national problem and for making reasonable sacrifices. Indeed, there is enough credit to go all the way around.

Let me emphasize the fact that if it were not for the distinguished minority leader, and men like Representative MCCULLOCH of Ohio, and the Senator from Nebraska, it would have been far more difficult to achieve the kind of report which is now before the Senate—if I may say so, it would have been impossible. They have served the Nation, this Congress, and their party well and I commend them for their efforts.

I congratulate all the conferees and the entire Senate for what they have done.

The PRESIDING OFFICER (Mr. MCGOVERN in the chair). The question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Arizona [Mr. HAYDEN] is absent on official business.

I further announce that the Senator from Minnesota [Mr. MCCARTHY] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. MCCARTHY] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Texas [Mr. TOWER] is detained on official business and, if present and voting, would vote "nay."

The result was announced—yeas 79, nays 18, as follows:

[No. 205 Leg.]

YEAS—79

Aiken	Dominick	Mansfield
Allott	Douglas	McGee
Anderson	Fannin	McGovern
Bartlett	Fong	McIntyre
Bass	Gore	McNamara
Bayh	Gruening	Metcalf
Bennett	Harris	Miller
Bible	Hart	Mondale
Boggs	Hartke	Monroney
Brewster	Hickenlooper	Montoya
Burdick	Hruska	Morse
Cannon	Inouye	Morton
Carlson	Jackson	Moss
Case	Javits	Mundt
Church	Jordan, Idaho	Murphy
Clark	Kennedy, Mass.	Muskie
Cooper	Kennedy, N.Y.	Nelson
Cotton	Kuchel	Neuberger
Curtis	Lausche	Pastore
Dirksen	Long, Mo.	Pearson
Dodd	Magnuson	Pell
Prouty	Simpson	Williams, Del.
Proxmire	Smathers	Yarborough
Randolph	Smith	Young, N. Dak.
Ribicoff	Symington	Young, Ohio
Saltonstall	Tydings	
Scott	Williams, N.J.	

NAYS—18

Byrd, Va.	Hill	Russell, S.C.
Byrd, W. Va.	Holland	Russell, Ga.
Eastland	Jordan, N.C.	Sparkman
Ellender	Long, La.	Stennis
Ervin	McClellan	Talmadge
Fulbright	Robertson	Thurmond

NOT VOTING—3

Hayden	McCarthy	Tower

So the conference report was agreed to.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I should like to ask the distinguished majority leader what the program might be for Thursday, and also for Friday, if there is to be a session on Friday?

Mr. MANSFIELD. Mr. President, the unfinished business is S. 944, a bill to provide for expanded research in the oceans and the Great Lakes, to establish a National Oceanographic Council and for other purposes.

It will be taken up tomorrow following the morning hour.

Following that, there will be consideration of the Atomic Energy Act.

Following that there will be consideration of the conference report on military construction.

Then the Senate will turn to the consideration of the bill on intergovernmental operations, which I understand was reported unanimously from the Committee on Government Operations.

Following that, it is intended to have a discussion with the distinguished Senator from New Hampshire, tomorrow, on the HEW appropriation bill.

On Friday, it is hoped that the Senate can take up S. 1599, dealing with the proposed Department of Housing.

Other matters will be taken up as they develop.

Mr. DIRKSEN. If I may pursue the matter a little further, the Department of Housing bill, of course, is quite a controversial matter. There are some Senators who are committed to be out of the city on that day. I hope the majority leader, if he does set the bill down for Friday, will agree that there will be no votes on it on Friday, so as not to foreshorten the plans of Senators who have made plans to be away.

Mr. MANSFIELD. Would it be more agreeable if we took up this bill next week, and considered other matters in between?

Mr. DIRKSEN. Yes; I believe it would be much more satisfactory to many members of committees.

Mr. MANSFIELD. If I may have the attention of the distinguished Senator from Delaware [Mr. WILLIAMS], it is possible that the Senate will consider S. 2069 and H.R. 4346, reported by the Committee on Commerce. These may be brought up on Friday, instead.

That is about it.

There will be no more votes tonight.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 1008) for the relief of Ottilia Bruegmann James.

The message also announced that the House had passed the following bills of the Senate, each with amendments, in which it requested the concurrence of the Senate:

S. 618. An act for the relief of Nora Isabella Samuelli; and

S. 1198. An act for the relief of Mrs. Harley Brewer.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8439) to authorize certain construction at military installations, and for other purposes.

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

H.R. 1221. An act for the relief of Betty H. Going;

H.R. 1274. An act for the relief of Mrs. Michiko Miyazaki Williams;

H.R. 1871. An act for the relief of Anna Del Baglivo;

H.R. 2571. An act for the relief of Ralph S. DeSocio, Jr.;

H.R. 3770. An act for the relief of certain individuals employed by the Department of the Navy at the Pacific Missile Range, Point Mugu, Calif.;

H.R. 4078. An act for the relief of William L. Minton;

H.R. 6527. An act for the relief of E. F. Fort, Cora Lee Fort Corbett, and W. R. Fort;

H.R. 6845. An act to correct inequities with respect to the basic compensation of teachers and teaching positions under the Defense Department Overseas Teachers Pay and Personnel Practices Act;

H.R. 7502. An act relating to the income tax treatment of certain casualty losses attributable to major disasters;

H.R. 8212. An act for the relief of Kent A. Herath;

H.R. 8350. An act for the relief of the successors in interest of Cooper Blyth and Grace Johnston Blyth otherwise Grace McCloy Blyth;

H.R. 8351. An act for the relief of Clarence L. Aiu and others;

H.R. 8352. An act for the relief of certain employees of the Foreign Service of the United States;

H.R. 8640. An act for the relief of Chief MSgt. Robert J. Becker, U.S. Air Force;

H.R. 8641. An act for the relief of Maj. Derrill deS. Trenholm, Jr., U.S. Air Force;

H.R. 8642. An act for the relief of Col. Eugene F. Tyree, U.S. Air Force (retired); and

H.R. 10132. An act to authorize the Honorable Joseph W. Martin, Jr., of Massachusetts,

former Speaker of the House of Representatives, to accept the award of the Military Order of Christ with the rank of grand officer.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 454) to provide for the development of Ellis Island as a part of the Statue of Liberty National Monument, and for other purposes, and it was signed by the Vice President.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 1221. An act for the relief of Betty H. Going;

H.R. 1274. An act for the relief of Mrs. Michiko Miyazaki Williams;

H.R. 1871. An act for the relief of Anna Del Baglivo;

H.R. 2571. An act for the relief of Ralph S. DeSocio, Jr.;

H.R. 3770. An act for the relief of certain individuals employed by the Department of the Navy at the Pacific Missile Range, Point Mugu, Calif.;

H.R. 4078. An act for the relief of William L. Minton;

H.R. 6527. An act for the relief of E. F. Fort, Cora Lee Fort Corbett, and W. R. Fort;

H.R. 8212. An act for the relief of Kent A. Herath;

H.R. 8350. An act for the relief of the successors in interest of Cooper Blyth and Grace Johnston Blyth otherwise Grace McCloy Blyth;

H.R. 8351. An act for the relief of Clarence L. Aiu and others;

H.R. 8352. An act for the relief of certain employees of the Foreign Service of the United States;

H.R. 8640. An act for the relief of Chief M. Sgt. Robert J. Becker, U.S. Air Force;

H.R. 8641. An act for the relief of Maj. Derrill deS. Trenholm, Jr., U.S. Air Force; and

H.R. 8642. An act for the relief of Col. Eugene F. Tyree, U.S. Air Force (retired): to the Committee on the Judiciary.

H.R. 6845. An act to correct inequities with respect to the basic compensation of teachers and teaching positions under the Defense Department Overseas Teachers Pay and Personnel Practices Act; to the Committee on Post Office and Civil Service.

H.R. 7502. An act relating to the income tax treatment of certain casualty losses attributable to major disasters; to the Committee on Finance.

H.R. 10132. An act to authorize the Honorable JOSEPH W. MARTIN, JR., of Massachusetts, former Speaker of the House of Representatives, to accept the award of the Military Order of Christ with the rank of grand officer; to the Committee on Foreign Relations.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENT TO THE BUDGET, 1966, FOR THE DEPARTMENT OF DEFENSE—MILITARY (S. Doc. No. 45)

A communication from the President of the United States, transmitting an amendment to the budget for the fiscal year 1966, in the amount of $1,700 million, for the Department of Defense—military (with an accompanying paper); to the Committee on Appropriations, and ordered to be printed.

AMENDMENT OF TITLE 10, UNITED STATES CODE, TO PERMIT CERTAIN PERSONS TO RECEIVE INSTRUCTION AT U.S. ARMED FORCES ACADEMIES

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to permit persons from countries friendly to the United States to receive instruction at the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

RESOLUTION OF ILLINOIS STATE SENATE

The ACTING PRESIDENT pro tempore laid before the Senate a resolution of the Senate of the State of Illinois, which was referred to the Committee on the Judiciary, as follows:

STATE OF ILLINOIS SENATE RESOLUTION No. 52

Resolved by the Senate of the 74th General Assembly of the State of Illinois, That this body respectfully petitions the Congress of the United States to call a convention for the purpose of proposing the following article as an amendment to the Constitution of the United States.

ARTICLE —

SEC. 1. Nothing in this Constitution shall prohibit any State which shall have a bicameral legislature from apportioning the membership of one house of such legislature on factors other than population, provided that the plan of such apportionment shall have been submitted to and approved by a vote of the electorate of that State.

SEC. 2. Nothing in this Constitution shall restrict or limit a State in its determination of how membership of governing bodies of its subordinate units shall be apportioned.

SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within 7 years from the date of its submission to the States by the Congress: Be it further

Resolved, That if Congress shall have proposed an amendment to the Constitution identical with that contained in this resolution prior to June 1, 1965, this application for a convention shall no longer be of any force or effect; be it further

Resolved, That a copy of this resolution be immediately transmitted by the secretary of state of Illinois to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States and to each Member of the Congress from this State.

Adopted by the senate, June 22, 1965.

SAMUEL H. SHAPIRO,
President of the Senate.
EDWARD E. FERNANDES,
Secretary of the Senate.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LAUSCHE:

S. 2355. A bill for the relief of Lazar Jivu and his wife, Elisabeth Jivu; and

S. 2356. A bill for the relief of Raymond J. Grachek; to the Committee on the Judiciary.

By Mr. SALTONSTALL:

S. 2357. A bill for the relief of Maria Olga G. M. Silva, and her sons, Jorge Manuel Machado Silva and Victor Manuel da Silva; to the Committee on the Judiciary.

By Mr. HOLLAND:

S. 2358. A bill to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in certain lands located in the State of Florida to the record owners of such lands; to the Committee on Interior and Insular Affairs.

By Mr. MCNAMARA:

S. 2359. A bill to provide labor standards for certain persons employed by Federal contractors to furnish services to Federal agencies, and for other purposes; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. MCNAMARA when he introduced the above bill, which appear under a separate heading.)

By Mrs. SMITH:

S. 2360. A bill to provide benefits under the Civil Service Retirement Act for the surviving child of Henry C. Furstenwalde; to the Committee on Post Office and Civil Service.

By Mr. SIMPSON:

S. 2361. A bill to reimburse certain persons recruited in the State of Wyoming in connection with the Athletes in Temporary Employment as Agricultural Manpower program for certain travel and other expenses incurred by them while participating in such program; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. SIMPSON when he introduced the above bill, which appear under a separate heading.)

By Mr. DODD:

S. 2362. A bill for the relief of Hilda Shen Tsiang; to the Committee on the Judiciary.

By Mr. MONDALE:

S. 2363. A bill to authorize the Administrator of Veterans' Affairs to convey certain lands situated in the State of Minnesota to the city of St. Cloud, Minn.; to the Committee on Finance.

By Mr. PELL (for himself and Mr. HART):

S. 2364. A bill to provide a statute of limitations with respect to the deportation of aliens lawfully admitted to the United States for permanent residence, and to remove certain distinctions made in the Immigration and Nationality Act between native-born and naturalized citizens; to the Committee on the Judiciary.

(See the remarks of Mr. PELL when he introduced the above bill, which appear under a separate heading.)

By Mr. PELL:

S.J. Res. 101. Joint resolution to authorize the President to issue a proclamation designating the calendar year 1966 as "The Year of the Bible"; to the Committee on the Judiciary.

(See the remarks of Mr. PELL when he introduced the above joint resolution, which appear under a separate heading.)

LABOR STANDARDS FOR EMPLOYEES OF FEDERAL SERVICE CONTRACTORS

Mr. MCNAMARA. Mr. President, I introduce a bill, and ask that it be appropriately referred.

The purpose of the bill, which has been proposed by the administration, is to provide labor standards for employees of Federal service contractors.

I ask unanimous consent that an explanation of the bill be printed in the RECORD at this point in my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the explanation will be printed in the RECORD.

The bill (S. 2359) to provide labor standards for certain persons employed

by Federal contractors to furnish services to Federal agencies, and for other purposes, introduced by Mr. MCNAMARA, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The explanation presented by Mr. MCNAMARA is as follows:

EXPLANATION OF BILL TO PROVIDE LABOR STANDARDS FOR EMPLOYEES OF FEDERAL SERVICE CONTRACTORS

This bill is proposed to provide much needed labor standards protection for employees of contractors and subcontractors furnishing services to or performing maintenance service for Federal agencies. The service contract is now the only remaining category of Federal contracts to which no labor standards protections apply. Construction contracts, including many which are partially financed with Federal funds but to which the Federal Government is not a party, require compliance with minimum labor standards under the Davis-Bacon Act and related statutes. Supply contracts of the Federal Government also provide labor standards protection pursuant to the Walsh-Healey Act.

NEED FOR THE LEGISLATION

Many of the employees performing work on Federal service contracts are poorly paid. The work is generally manual work and in addition to craft work, may be semiskilled or unskilled. Types of service contracts which the bill covers are varied and include laundry and dry cleaning, custodial and janitorial, guard service, packing and crating, food service and miscellaneous housekeeping services.

Service employees in many instances are not covered by the Fair Labor Standards Act or State minimum wage laws. The counterpart of these employees in Federal service, blue collar workers, are by a Presidential directive assured of at least the Fair Labor Standards Act minimum. Bureau of Labor Statistic surveys of average earnings in service occupations in selected areas in 1961 and 1962 show, however, that an extremely depressed wage level may prevail in private service employment. In contract cleaning services, for example, in some areas less than $1.05 an hour was paid. Elevator operators earned low rates, varying from 79 cents to $1.17 an hour. Service contract employees are often not members of unions. They are one of the most disadvantaged groups of our workers and little hope exists for an improvement of their position without some positive action to raise their wage levels.

The Federal Government has added responsibility in this area because of the legal requirement that contracts be awarded to the lowest responsible bidder. Since labor costs are the predominant factor in most service contracts, the odds on making a successful low bid for a contract are heavily stacked in favor of the contractor paying the lowest wage. Contractors who wish to maintain an enlightened wage policy may find it almost impossible to compete for Government service contracts with those who pay wages to their employees at or below the subsistence level. When a Government contract is awarded to a service contractor with low wage standards, the Government is in effect subsidizing subminimum wages.

PROVISIONS OF BILL

The bill is applicable to advertised or negotiated contracts, in excess of $2,500, the principal purpose of which is for the furnishing of services through the use of service employees, as defined in the bill. Thus, for example, contracts made by the District of Columbia government with local hospitals for the care of indigent patients would not be covered, since "service employees" as defined in the bill would be performing only incidental functions. Similarly, contracts entered into by the Atomic Energy Commission for the management and operation of Government-owned plants would not be service contracts within the meaning of the bill.

Provisions regarding wages and working conditions must be included in these contracts and bid specifications. Service employees must be paid no less than the rate determined by the Secretary of Labor to be prevailing in the locality.

The bill also recognizes the growing importance of fringe benefits as an element of wages in today's society. It therefore requires inclusion in the contract of an agreement to provide service employees benefits determined by the Secretary to be prevailing for such employees in the locality. This obligation may be discharged by furnishing any equivalent combinations of benefits or cash payments in accordance with regulations of the Secretary.

The bill also prohibits the payment on any Government service contract of wages less than the minimum wages required under the Fair Labor Standards Act.

In addition to the wage and fringe benefits requirements of the bill, additional stipulations require that service or maintenance work shall not be performed under unsafe or unsanitary working conditions where those working conditions are under the control of the contractor or subcontractor. Contractors or subcontractors are also required to notify employees of the benefits due them under the act.

In the event of violation, the bill authorizes the withholding from the contractor of accrued payments necessary to pay covered workers the difference between the wages and benefits required by the contract and those actually paid. The Government may also bring court action against the contractor, subcontractor, or surety to recover the remaining amount of the underpayment. The contract may be terminated because of violations and the contractor held liable for any resulting cost to the Government.

The bill also provides a procedure for blacklisting, for a period up to 3 years, those who violate the act, with authority in the Secretary to recommend removal from the blacklist upon assurance of compliance. The Secretary is given the same authority to make rules, regulations, issue orders, hold hearings, and take other appropriate action to enforce the act as under sections 4 and 5 of the Walsh-Healey Act. The Secretary's authority to prescribe regulations includes authority to permit reasonable tolerances, variations, and exemptions from provisions of the act where they are deemed necessary and proper in the public interest or to avoid serious impairment of Government business.

Section 7 provides a number of specific exemptions from coverage under the act, including contracts for public utility services. This exemption would, for example, include contracts between Federal electric power marketing agencies and investor-owned electric utilities, Rural Electrification Administration cooperatives, municipalities and State agencies engaged in the transmission and sale of electric power and energy.

RELIEF FOR THE VICTIMS OF THE DEPARTMENT OF LABOR'S A-TEAM EXPERIMENT

Mr. SIMPSON. Mr. President, I introduce, for appropriate reference, a bill which will provide relief for the victims of the Department of Labor's recent A-team experiment.

One June 30 I brought to the attention of my colleagues here in the Senate the sad results of the Secretary of Labor's attempts to send youths to work in the agricultural fields of distant States.

The case of the A-team sent from Wyoming to California was one example out of many that pointed up the inequities of the Labor Department's program and its policies. The Wyoming team arrived in Salinas, Calif., to find that living conditions were unsatisfactory and that no agreement could be reached as to wages. Following 3 days of confusion and frustrations arising from the continuing misrepresentations made to them, the Wyoming team decided to return home. The parents of the boys on the team borrowed over $2,000 in order to charter a bus for 38 members of the team.

In my earlier speech to the Senate, I pointed out that the so-called A-team scheme was a hastily conceived and poorly executed attempt by the Secretary of Labor to control and manipulate our Nation's farm labor force. Since the publication of my remarks, other Congressmen have charged that the Labor Department was attempting to blackmail certain growers by forcing them to replace their bracero labor with inexperienced youths under the guise of the A-team program.

Immediately following my statement in the Senate, I made an official request of the Secretary of Labor that he provide some remedy to the parents who had paid for the untimely return of the Wyoming team. I got no response from the Department of Labor.

Then on July 22 I requested the courtesy of a reply from the Secretary of Labor. I was prompted to make this second request when it was brought to my attention that the people of Wyoming were waiting to hear of the disposition of their case and that interest charges were mounting as they waited.

All of this has been made clear to the Secretary of Labor, and yet, his Department has persisted in keeping silent. I have had no reply to any of my correspondence with the Secretary of Labor.

Mr. President, I cannot tolerate inaction any longer and, therefore, introduce this bill. It is my hope that the Senate will take speedy action in directing and authorizing the Secretary of Labor to repay the claims for transportation money that is rightfully owing to the Wyoming A-team.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2361) to reimburse certain persons recruited in the State of Wyoming in connection with the athletes in temporary employment as agricultural manpower program for certain travel and other expenses incurred by them while participating in such program, introduced by Mr. SIMPSON, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

ELIMINATION OF CERTAIN INEQUITIES IN THE IMMIGRATION AND NATIONALITY ACT

Mr. PELL. Mr. President, aside from the glaring inequities in our Immigration Act with respect to the quota system

based on national origins, there are other sections which are equally unjust.

The bill I am introducing on behalf of myself and the Senator from Michigan [Mr. HART] will eliminate several sections and amend another, to bring the Immigration Act into harmony with our traditional American concept of fair play and justice for all under the law.

My bill proposes to establish a statute of limitation on deportation proceedings brought against aliens lawfully admitted for permanent resident in this country. Under this amendment, no such action could be effected if the alien has been living continuously in this country for 10 years or more, nor could an action be brought against an alien if the conduct for which he could be deported occurred more than 10 years before the proceeding is brought.

Although the Supreme Court in the case of Schneider versus Rusk has ruled that a naturalized citizen who returns to his country of birth and remains for more than 3 years cannot be stripped of his U.S. citizenship, the sections of the act which contain these odious provisions should be repealed to make our immigration laws consistent with the Court's ruling.

I ask unanimous consent that the bill be printed in full at this point in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2364) to provide a statute of limitations with respect to the deportation of aliens lawfully admitted to the United States for permanent residence, and to remove certain distinctions made in the Immigration and Nationality Act between native-born and naturalized citizens, introduced by Mr. PELL (for himself and Mr. HART), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 2364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Immigration and Nationality Amendments Act of 1965."

SEC. 2. (a) Title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"LIMITATION ON DEPORTATION

"SEC. 293. Notwithstanding any other provision of this Act, no alien lawfully admitted to the United States for permament residence shall, on or after the date of enactment of this section, be deported (1) if such alien has been physically present in the United States for a continuous period of not less than ten years at any time after being lawfully admitted for permanent residence, or (2) if the conduct for which such alien is deportable occurred more than ten years prior to the institution of deportation proceedings against him."

(b) So much of the table of contents of the Immigration and Nationality Act as describes the contents of chapter 9 of title II of such Act is amended by adding at the end thereof the following: "Sec. 293. Limitation on deportation."

SEC. 3. (a) Subsection (a) of section 340 of the Immigration and Nationality Act is amended by striking out the following: ": *Provided,* That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such person has been convicted of contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation".

(b) Subsections (c) and (d) of section 340 of such Act are hereby repealed.

(c) Subsection (f) of section 340 of such Act is amended by striking out the following: "subsections (c) or (d) of this section, or under the provisions of".

(d) Sections 352, 353, and 354 of such Act are hereby repealed.

(e) Section 355 of such Act is amended by striking out "or 352".

SEC. 4. Paragraph (2) of section 350 of the Immigration and Nationality Act is amended by inserting the following immediately before the semicolon: "as such paragraphs existed immediately prior to the date of the enactment of the Immigration and Nationality Amendments Act of 1965".

DESIGNATION OF THE CALENDAR YEAR 1966 AS "THE YEAR OF THE BIBLE"

Mr. PELL. Mr. President, I rise today to ask this body to pay tribute to one of our Nation's most worthy societies and to one of our most worthy traditions. The tradition of which I speak is that of respect for and knowledge of the Bible. The Bible has been a vital force in the lives of Americans for more than three centuries, and the tradition of Bible reading has been supported by the American Bible Society, a nonprofit, nondenominational organization, for the 150 years since its founding.

Following the American Revolution, the new Nation was largely without a supply of Bibles. Presses operating in the Old World had been cut off to America for 2 years. The few Bibles available were far too expensive for the majority of Americans to purchase them. People moving west often were forced to settle in areas without a church and without access to a Bible. Also, this was the age of the missionary. Those who had gone overseas were pleading with their home offices to provide Bibles in the native tongues of the areas where they worked. Missionary translations lay unpublished for lack of funds and facilities to produce inexpensive editions. There was a great need for cooperation in meeting these problems, and the cooperative effort was begun with the founding of the American Bible Society in 1816 under the direction of Dr. Elias Boudinot, then president of the New Jersey Bible Society and a past President of the Continental Congress.

The goal of the society at that time and ever since has remained constant: to make the Scriptures available and meaningful everywhere. To this end the American Bible Society has donated Bibles to the personnel of our armed services and to the armed services of other nations. They have published Bibles in more than 500 languages, often making the Bible available in a specific language for the first time. For instance, portions of the Bible have been published recently in Bafia, Cashibo, and Ilongot. In this translation effort the American Bible Society has been joined by other Bible societies.

Prompted by a special concern for the blind, the society produces the Scriptures in braille and on recordings. They continue in all ways to do their best in meeting the challenges of the times—increasing secularism, newly literate peoples, and the Communist drive toward atheism. Their record of service is long and continuous.

I have always supported the goals of the American Bible Society to the fullest, and have participated in the organization as its vice president for the last 3 years. This same position is held by my colleague on the House side, Representative PETER H. B. FRELINGHUYSEN, and he will join me in supporting the American Bible Society by introducing to the House the joint resolution which I place before you today.

Just as Representative FRELINGHUYSEN and I have found the society's goals worthy of support, so too have noteworthy Americans of all faiths and of all positions. Many leaders of our Nation have expressed their concern by serving as honorary chairmen, including Presidents Roosevelt, Truman, Eisenhower, Kennedy, and Johnson. The society has also been served by chief justices, Congressmen, Governors, and Cabinet members. The list could continue at length.

The resolution which I introduce today would serve as a tribute to the notable past achievements of the society, an incentive to present purposes, and an expression of confidence in the future of this distinguished organization. It would authorize and request the President to designate 1966 as "The Year of the Bible" and encourage the people of the United States to acquire a better knowledge and appreciation of the Scriptures. I hope all Senators will join me in supporting this resolution.

At this point I ask unanimous consent that documentary material explaining some of the achievements of the society in recent years be entered in the RECORD.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the documentary material will be printed in the RECORD.

The joint resolution (S.J. Res. 101) to authorize the President to issue a proclamation designating the calendar year 1966 as "The Year of the Bible," introduced by Mr. PELL, was received, read twice by its title, and referred to the Committee on the Judiciary.

The documentary material presented by Mr. PELL is as follows:

HIGHLIGHTS OF 1964

During 1964 the American Bible Society—

Distributed at home 682,895 Bibles, 1,437,029 Testaments, 4,966,383 portions, and 18,255,605 selections, a total of 25,341,813 Scriptures;

Provided through donor gifts a distribution overseas of 1,118,584 Bibles, 1,102,435 New Testaments, 13,506,946 portions and 7,605,740 selections, making a total of 23,333,705 Scriptures, which represented approximately 58 percent of the total distribution in 130 countries abroad, so that altogether, the

ABS accounted for a grand total at home and overseas of 48,675,617 copies of Scriptures;

Engaged in translators' institutes in various parts of the world. Special institutes were held in Peru and New Guinea. More than 3,000 persons are now involved in Bible translation throughout the world;

Shared in the first joint worldwide meeting of Bible Society and church leaders, held June 22–26 at Driebergen, Holland; more than 100 persons from 50 nations participated;

Published for the first time the Gospel of Mark in the English of today, under the title of "The Right Time." This translation is especially useful to people without English as their mother tongue and for those with a limited vocabulary;

Issued to the blind 65,834 Scriptures in braille and on talking Bible records;

Produced in cooperation with the Canadian Bible Society—the motion picture "Freedom in Their Souls" and filmstrips "Mukaba and His Bible" and "The Blind Can Lead." Daily 1-minute radio spot announcements were developed for some 2,000 stations and six 1-minute television spots for 650 stations;

Circulated the Bible Society Record, now in its 147th year of continuous publication, to about 1 million members of the Bible Society family 10 times during the year. More than 130,000 of the recipients are ministers of churches;

Adopted the boldest budget in the society's history—$6,348,000 for 1965, or $448,000 more than that of the previous year;

Supported the "circle of the concerned" movement of church women. This program has grown from the urgency to get the Scriptures to the spiritually hungry of this new age, and the need for greater personal attention to the Bible;

Received from churches $1,186,960, an increase of $66,683 over 1963;

Participated May 17, in the first global program of reading and sharing the Pentecostal message, acts 2, presented in an attractively illustrated booklet;

Erected a Scripture distribution center in Wayne, N.J. (20 miles from Manhattan), dedicated September 3;

Appointed its first woman field secretary, Mrs. Elizabeth D. Newcomer, of Kansas City, Mo., in the new program of "women's activities" in the United States of America;

Started to construct the new Bible House at 61st Street and Broadway, New York City, near Lincoln Center;

Included 17 new languages in its accessions, of which 9 were ABS publications; and

Provided a total of 301,541 volumes of Scriptures to World's Fair visitors.

LANGUAGES AND DIALECTS IN WHICH THE AMERICAN BIBLE SOCIETY DISTRIBUTED THE SCRIPTURES IN 1964—492

ASIA: 186

Abor-Miri, Akha, Alangan, Amis, Anal, Arabic, Arabic Algerian, Arabic Judaeo-Tunisian, Arabic Mogrebi, Arabic Tunisian, Armenian ancient, eastern modern Armenian, western modern Armenian, Asho, Assamese, Atsi.

Balinese, Balochi, Batak Karo, Batak Simalungun, Batak Toba, Bawm, Bengali, Bengali Musalmani, Bhili Dehwali, Bicol, Biete, Bihari Bhojpuri, Bilaan, Binukid, Bolinao, Boro, Bugis, Bunun, Burmese.

Cambodian, Cebuano, Chinese Kuoyû, Chinese high Wenli, Chinese easy Wenli, Chinese Amoy, Chinese Cantonese, Cuyono.

Daphla, Dimasa, Dyak Ngaju.

Garo Achik, Gondi Adilabad, Gujarati.

Haka, Hanunoo, Hebrew, Hindi, Hindi Chhattisgarhi, Hindustani, Hkun, Hmar, Ho.

Ibanag, Ifugao Banaue, Ilocano, Ilongo, Ilongot, Indonesian.

Japanese, Javanese.

Kachin Jinghpaw, Kambera, Kamhau, Kankanaey, Kannada, Karen, Pwo, Karen Sgaw, Kashmiri, Kharia, Khasi, Khondi Kui, Khumi, Koho, Korean, Kulu, Kurdish Kermanshahi, Kurdish Kurmanji, Kurdish Mukri, Kurukh.

Lahnda Hindko, Lahu, Lahuli Bunan, Lahuli Tinan, Laizo, Lakher, Lambadi, Lisu Western, Lushai.

Macassar, Maguindanao, Malay High, Malayalam, Manipuri, Manobo Agusan, western Bukidnon Manobo, Manobo Ilianen, Marathi, Marathi Konkani, Mentawei, Mikir, Mon, Mongolian Literary, Mori.

Nundari, Naga Angami, Naga Ao, Naga Kabui, Naga Konyak, Naga Lhota, Naga Mao, Naga Mzieme, Naga Phom, Naga Rengma, Naga Sangtam, Naga Sema, Naga Tangkhul, Naga Zeme, Nepali, Ngawn, Nicobarese Car, Nias.

Oriya, Pahari Garhwali Tehri, Paite, Paiwan, Palawano, Pali, Pamona, Pampango, Pangasinan, Panjabi, Panjabi Persian, Pashto, Persian.

Rade, Rawang, Riang, Riang Lang.

Samareño, Sangir, Sanskrit, Santali, Sediq, Shan, Shan Yunnanese, Sindhi, Sinhalese, Sora, Subanen, Sundanese, Syriac (ancient), Syriac (modern).

Tagabili, Tagalog, Tai Lao, Tamil, Taungthu, Tau Sug, Tayal, Telugu, Thado: Kulki, Thado: Vaiphei, Thai, Tibetan, Timorese, Tiruray, Toda, Toradja (South), Turkish, Turkish (Azerbaijani), Turkish (Kashgar), Turkish (Uzbek).

Urdu, Vietnamese, Wa, Wewjewa, Yakan, Zambal Zangskari, Zotung.

For the blind

Arabic braille, Arabic talking book records, Armenian braille, Burmese braille, Chinese braille, Hebrew braille, Hindi braille, Japanese braille, Turkish braille, Urda braille.

EUROPE: 45

Albanian, Albanian Gheg, Albanian Tosk, Basque Labourdin, Basque Souletin, Breton Léon, Bulgarian, Czech, Danish, Dutch, Esperanto, Estonian, Faroe, Finnish, French, Frisian, Gaelic, Georgian, German, German (low), Greek (ancient), Greek (modern), Hungarian.

Icelandic, Irish, Italian, Latin, Latvian, Lithuanian, Norwegian, Norwegian Nynorsk, Polish, Romany, Rumanian, Russian, Russian (White), Serbo-Croatian, Slavonic, Slovak, Slovenian, Spanish, Judaeo-Spanish, Swedish, Ukranian, Welsh, Yiddish.

For the blind

French braille, French talking book records, German braille, Greek ancient braille, Greek modern braille.

AFRICA: 187

Afrikaans, Agatu, Amharic, Anuak, Ashanti (Fante), Ashanti (Twi), Avikam.

Bambara, Bangala, Baouli, Bari, Bassa Liberia, Bassa Nigeria, Bemba, Bena, Benga, Boran, Bulu.

Chaga Mochia, Chokwe, Dagbane, Dogon, Duala, Dyerma.

Ebrie, Efik, Ethiopic, Ewe, Fang, Fula, Futa Jalon, Fulani, Ga, Galla: Northern, Ganda, Gbeapo, Gio, Gipende, Giryama, Gogo, Gourma, Gouro, Grebo, Gu: Alada.

Ha, Hanga, Hausa, Haya, Herero, Ibo, Idoma, Igala, Ijo: Brass, Ila, Isoko: Igabo, Jieng: Bor, Jieng: Padang, Jita.

Kabba-Laka, Kabyle, Kalana, Kalenjin, Kamba, Karamojong, Karré, Ke'bu, Kele: Congo, Kikinga, Kikuyu, Kim, Kisii, Kissi, Kituba, Kiyaka, Kongo: Fioti, Kongo: San Salvador, Kpelle, Kunama.

Lamba, Lendu Batha, Lobi, Loma, Lomwe, Lozi, Luba Kalebwe, Luba Kaonde, Luba Katanga, Luba Sanga, Luchazi, Lugbara, Luimbi, Lunda: Kambove, Lunda: Ndembu, Luo, Lur, Luvale, Lwo.

Makua, Malagasy, Mambwe, Maninka, Mano, Masai, Masana, Mbundu Benguella, Mbundu Loanda, Mende, Meru, Mongo-Nkundu, Moré, Mukuni, Mundang.

Nambya, Namwanga, Ndandi, Ndau, Ndonga, Ngala, Ngambai, Ngandu Ngombe, Ngwana: Ituri, Nkore-Kiga, Nkoya, Nsenga, Nuba: Nirere, Nupe, Nyamwezi, Nyanja, Nyika: Nyasa, Nyore, Nyoro.

Ogoni, Otetela, Popo, Ragoli, Remi, Ronga, Ruanda, Rundi, Sangir, Sango, Sara: Mbai, Sena, Shambala, Shilha: Southern, Shilluk, Shona, Sobo (Urhobo), Somali, Suk, Sukuma, Sura, Susu, Suto, Swahili Congo, Swahili Mombasa, Swahili Zanzibar.

Tabele, Taita Dabida, Taita Sagalla, Tamachek Tamahaq, Tangale, Tchien, Teso, Thonga, Tigré, Tigrinya, Tiv, Toma, Tonga Inhambane, Tonga of Lake Nyasa, Tonga Rhodesia, Tshiluba, Tshwa, Tswana, Tumbuka.

Uduk, Venda, Wiza Lala, Xhosa, Yao, Yipounou, Yoruba, Zanaki, Zande, Zulu.

For the blind

Bemba Braille, Hausa Braille, Nyanja Braille.

PACIFIC ISLANDS: 14

Chamorro, Fiji, Gilbertese, Kate, Kusaie, Maori, Marshallese Neo-Melanesian, Palau, Samoan, Tahitian, Toaripi, Tonga of Tonga Islands, Trukese.

AMERICAS: 60

Aguacatec, Amuesha, Aymara, Aztec Sierra, Cakchiquel, Carib Garifuna, Cheyenne, Choi, Chontal of Oaxaca, Chuj, Comanche, Combe, Conob, Cuna.

English, Eskimo Kuskokwim, Eskimo Labrador, Guajira, Guarani, Haitian Creole, Hawaiian, Hopi, Huastec, Iroquois, Kekchi, Lengua.

Mam, Maya Mazatec, Mazahua, Miskito, Mixtec, Mixtec San Miguel el Grande, Navajo, Negro English, Ojibwa, Otomi Mezquital, Papiamento, Piro, Portuguese.

Quechua Ancash, Quechua Ayacucho, Quechua Bolivian, Quechua Cuzco, Quechua Ecuadorean, Quechua Huanuco, Quechua Junin, Quiché.

Shipibo, Spanish, Tarahumara, Tarascan, Tlapanec, Totonac, Tzeltal, Tzeltal Bachajón, Valiente, Warao, Zapotec Isthmus, Zoque.

For the blind

English: English Braille, Moon, New York Point, American Braille, Braille Grade 1½, Braille Grade 2, Interpoint Grade 2, English Talking Book Records.

Portuguese Braille, Spanish Braille, Spanish Talking Book Records.

Scriptures were issued through the Bible House in New York in 215 of these 492 languages and dialects. To meet the growing demand by the non-English speaking people in the United States, Scriptures were distributed nationally in 129 languages.

Overseas distribution reached people representing 422 different languages and dialect groups through the joint agencies and the associated Bible societies, for which the American Bible Society provides subsidies and aid in other countries.

MINORITY VIEWS ON EXECUTIVE REPORT NO. 4, RELATING TO CONSULAR CONVENTION WITH SOVIET RUSSIA

Mr. LAUSCHE. Mr. President, I ask unanimous consent that I, together with any other member of the Foreign Relations Committee who might decide to join me, may be permitted to file minority views to Executive Report No. 4 dealing with a consular convention of the United States with the Soviet Union. I have spoken to the chairman of the committee, the Senator from Arkansas [Mr. FULBRIGHT], and he has approved of the request.

The PRESIDING OFFICER. Without objection, the request is granted, as in executive session.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that the minority views be authorized to be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS

Mr. SIMPSON. Mr. President, on June 30 I introduced S. 2230, which was a companion bill to that of Representative RIVERS' military pay raise bill. Last week I testified before the Armed Services Committee in support of that bill. I am hopeful that the committee will report it out as it passed the House of Representatives.

I ask unanimous consent to have added as cosponsors at the next printing the names of the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, there are now joined with me in the bill S. 2228, which would make the pay of overseas teachers in our Department of Defense schools comparable to that of the average in cities above 100,000 population, 17 other Senators. We have just held hearings on this bill in the Post Office and Civil Service Committee, and I hope we may have a report and affirmative Senate action before long.

I ask unanimous consent at this time that at its next printing, the name of one more of my colleagues be added to this bill, that of the Senator from Massachusetts [Mr. KENNEDY].

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The VICE PRESIDENT. The Chair announces the appointment of Senators PASTORE and HICKENLOOPER to the International Atomic Energy Agency Conference to be held in Tokyo for 2 weeks, beginning September 21, 1965.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The VICE PRESIDENT announced that on today, August 4, 1965, he signed the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S. 579. An act for the relief of the State of New Hampshire;

H.R. 7954. An act to amend the Communications Act of 1934 to conform to the Convention for the Safety of Life at Sea, London (1960);

S.J. Res. 56. Joint resolution authorizing the President to proclaim the occasion of the bicentennial celebration of the birth of James Smithson;

H.J. Res. 324. Joint resolution to provide for the reappointment of Robert V. Fleming as Citizen Regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 481. Joint resolution to amend the joint resolution of March 25, 1953, to expand the types of equipment furnished Members of the House of Representatives.

ADDITIONAL COSPONSORS OF BILL AND CONCURRENT RESOLUTION

Under authority of the orders of the Senate of July 22, 1965, the following names have been added as additional cosponsors for the following bill and concurrent resolution:

S. 2318. A bill to amend chapter 13 of title 38, United States Code, in order to increase the dependency and indemnity compensation rates payable under such chapter to widows and children of veterans: Mr. ALLOTT, Mr. BARTLETT, Mr. BASS, Mr. BAYH, Mr. BREWSTER, Mr. GRUENING, Mr. HART, Mr. HARTKE, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY of Massachusetts, Mr. KUCHEL, Mr. LONG of Missouri, Mr. MCGEE, Mr. METCALF, Mr. MONRONEY, Mr. MONTOYA, Mrs. NEUBERGER, Mr. RANDOLPH, Mr. THURMOND, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, and Mr. YARBOROUGH.

S. Con. Res. 43. Concurrent resolution authorizing the printing as a Senate document of all floor remarks by Members of Congress in tribute to the late Adlai E. Stevenson: Mr. BARTLETT, Mr. BAYH, Mr. BIBLE, Mr. BOGGS, Mr. BREWSTER, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. CANNON, Mr. CARLSON, Mr. CHURCH, Mr. CLARK, Mr. COOPER, Mr. DIRKSEN, Mr. DODD, Mr. DOUGLAS, Mr. ERVIN, Mr. FANNIN, Mr. FULBRIGHT, Mr. HARRIS, Mr. HART, Mr. HOLLAND, Mr. INOUYE, Mr. JORDAN of Idaho, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of New York, Mr. LONG of Missouri, Mr. LONG of Louisiana, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONRONEY, Mr. MONTOYA, Mr. MORSE, Mr. MORTON, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. PROUTY, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SALTONSTALL, Mr. SPARKMAN, Mr. SYMINGTON, Mr. TOWER, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, and Mr. YARBOROUGH.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, August 4, 1965, he presented to the President of the United States the following enrolled bill and joint resolution:

S. 579. An act for the relief of the State of New Hampshire; and

S.J. Res. 56. Joint resolution authorizing the President to proclaim the occasion of the bicentennial celebration of the birth of John Smithson.

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, without amendment, the bill (S. 1742) to authorize the U.S. Governor to agree to amendments to the articles of agreements of the International Bank for Reconstruction and Development and the International Finance Corporation, and for other purposes.

The message also announced that the House had passed a bill (H.R. 8469) to provide certain increases in annuities payable from the civil service retirement and disability fund, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 8469) to provide certain increases in annuities payable from the civil service retirement and disability fund, and for other purposes, was read twice by its title and referred to the Committee on Post Office and Civil Service.

SEA IS THE MOTHER OF LIFE ON LITTLE DIOMEDE

Mr. MANSFIELD. Mr. President, now and again, mid the hustle and bustle, the stresses and strains of modern-day boomlife, we are reminded that there are some people who live simply and happily and find fulfillment in places that most of us would call uninhabitable. Little Diomede Island is just such a place. Located in the Bering Strait off the coast of Alaska, Little Diomede is perhaps the only place on earth where it is possible to see at one time, two continents, two oceans, two days, and the world's two most powerful nations. From the summit of Little Diomede one can see the rugged shores of Siberia while looking across the international date line and the snowcapped mountains of Alaska; the Pacific Ocean to the south and the icy waters of the Arctic to the north.

The people of Little Diomede are Eskimos, hardened to a life without luxury, yet satisfied with their lot, working and hunting, tirelessly struggling against the challenges of nature. They are people who fight the elements to live, but who live at peace with each other, sharing whatever meager largess the earth and the sea give up.

The 15 families of Little Diomede are not, however, free from all the tensions of the big world with which their contacts are so few and sparse. Some years ago a family visit to neighboring Soviet Big Diomede resulted in 52 days internment. No such visits have since taken place to Big Diomede from Little Diomede.

Mr. President, I ask unanimous consent that an article by Jim Kimball which appeared in the Great Falls Tribune on August 1, 1965, be printed at this point in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEA IS THE MOTHER OF LIFE ON LITTLE DIOMEDE

(EDITOR'S NOTE.—This is the third in a series about Arctic Alaska by Jim Kimball, Minneapolis Tribune staff writer. Kimball and Dr. Walter J. (Breck) Breckenridge, director of the University of Minnesota Museum of Natural History, made their Arctic journey in June.)

(By Jim Kimball)

LITTLE DIOMEDE ISLAND, ALASKA.—That Little Diomede Island could be inhabited by anything other than cliff-nesting birds seems incredible. It is a 1,308-foot-high mountain of rock less than 7 miles in circumference. Much of the shoreline rises out of the water as a precipitous cliff. The village of Diomede

the home of 15 families totaling 70 people, clings to the mountainside on the west side of the island. It seemed unbelievable that human life could be sustained on this tiny island of barren rock until I realized that for Eskimos, as for the birds that nest here, it is the sea which provides the resources.

A few leaves, herbs, and berries are collected by Eskimos high on the mountain, but almost everything they eat, wear, or use to build boats comes from the sea. When the sea fails to yield its bounty, food is scarce. Starvation is within the memory of the islanders.

I have been trying to understand the Eskimo's attitude toward the animals and birds which keep him alive. I have not completely succeeded. It may not be possible for one raised in the traditions of conservation, sportsmanship, and the love of wild things, for what they are, ever to comprehend the Eskimo's attitude toward wild animals.

The Eskimo is a hunter—a predator akin to the hawk, wolf, or fox. Like other predators, he kills so he may survive. At various seasons he hunts seals, walrus, polar bears, and whales. He traps, nets, and shoots birds and collects their eggs. He doesn't worry too much about tomorrow—to say nothing of next year or of succeeding generations.

Conservation and sportsmanship are recent attitudes accepted by our civilization. Should we expect to find them in Eskimos who are in about the position of our American Indians of 75 years ago?

On a foggy morning I watched as nearly all the village men took to sea in three skin boats to hunt walrus. It seemed incredible that they would go out and expect to get back to this little island when you could not see a hundred yards through the fog.

After hunting all day and all night, men in two boats returned. One boat had taken 44 walrus, the other 20. The men ate, took on more gasoline for the boat motors and went out again, without sleeping. They think nothing of going several days and nights without rest. When walrus are in the area, nothing else counts. If storms are too severe, they pull their boats onto the ice and wait.

Breck and I started climbing the mountain behind the village, to photograph birds as they returned from the sea in the evening. I spotted an Eskimo, Raleigh Ozenna, climbing the mountain with a bird net and got his permission to accompany him on his hunt.

NETTING BIRDS

Far up the mountain he suspended a line between rocks for his decoys. A few feet away, a half circle of rocks formed a blind. As the birds came over the blind, Raleigh deftly scooped a crested auklet out of the air with his net, which was a strange oblong hoop, about 6 by 16 inches, on a thin 14-foot handle.

He threaded a short thong through the auklet's nostrils and tied the bird to the decoy line. There it hung by its bill, flapping violently, while he went back to the blind. The first 10 birds caught were hung on the line.

"You want to try?" he asked me. I couldn't resist. Then I thoroughly disgraced myself. I swung the net at every bird that came by and never even touched one.

I kept on climbing to the top of Little Diomede. From the summit I looked to the east and saw the snowcapped mountains of mainland Alaska. To the west, across the international dateline, the rugged coast of Siberia loomed over Russian-owned Big Diomede Island. The Pacific Ocean lay to the south and the Arctic Ocean to the north.

TWO CONTINENTS

I was standing on the only spot on earth from which you might see two continents, two oceans, 2 days, and the two major world powers.

By the time I got back down to the village, it was midnight. Looking due north, I photographed the sun at its lowest point. Nearly half of it was visible above the horizon.

In 2 days here I have seen more birds than during the previous years of my life. The air above is constantly filled with birds. They are perched on and under every rock—it seems the world has been taken over by birds—murres, auklets, and puffins.

John Iyapana is one of the best informed Eskimos on the island. We had no language barrier when we talked to him. We pointed out to him that the 44 walrus taken in 1 day by his boat, plus 20 killed by the other boat, meant that 100 tons of meat, blubber, and hide, and nearly as many more wounded, were left to rot in the sea.

DIRECT ECONOMICS

He felt not the slightest twinge of conscience. His economics were direct and perfectly logical. "That is good hunting," he said. "We need ivory to carve and sell. That is how we get money for gasoline, guns, and fuel oil."

He explained that bringing in one or two whole walrus carcasses would be a day's work, but if hunters brought only the ivory tusks they could shoot many. Walrus must be hunted during the short time they are available. And these Eskimos already had enough cow walrus for food.

Walrus ivory is worth $2.25 per pound, and a bull carries about 15 pounds. The oozhook (baculum) is worth at least $10.

Each hunter may take not more than five walrus cows per year—there is no limit on bulls. When cows are available, the bulls are considered valuable only for their ivory because their meat is tough and their hides less valuable.

EXCEL AT CARVING

These Eskimos excel at ivory carving. Next to hunting, it is their greatest skill and their greatest source of pride, as well as income. Every man at Diomede carves. Last year their carvings brought the village an income of about $8,000.

Bracelets, beads, buttons, letter openers, watchbands, figures for mounting on earrings, pickle forks, cocktail sticks, and charms are carved from walrus tusk ivory. The figures of seals, polar bears, and walrus are excellent.

Frequently the new white ivory is combined with jet black balene from whales' throats and rich brown antique ivory dug from the ground where it may have aged hundreds of thousands of years. The carvers also use beautiful brown ivory from tusks of mastodons which have been extinct for 10,000 to 12,000 years.

UNDERGROUND HOMES

A casual visitor to Diomede would say the town consisted of tiny shacks. He would be missing the real living quarters, which are built into the rocky mountainside and are primarily subterranean. Each home is a single room, many about 8 x 10 feet, sometimes too low to stand in. Usually there are no tables, chairs, beds, or furniture of any kind other than a shelf along each wall.

To get into the homes, one goes through a tunnel about 20 feet long, 2½ feet wide, and 3½ feet high. At the end of the tunnel, a hole about 18 inches in diameter brings one through the floor of the dwelling. There's usually a single window in the ceiling. Without furniture, the rooms seem quite spacious.

All necessities of life are in the room. Surpluses are stored in the attached little shacks.

EVERYTHING SHARED

In Diomede, the ancient custom of sharing practically everything still is followed. If there is any food in the village, everyone eats. When the hunters come home, villagers come to the beach to get what they need, including the precious ivory.

How does one go about teaching that the white man's efforts to outdo and outpossess his neighbor are more Christian?

The village of Diomede would be considered a slum by our standards, but it is not. It is in keeping with the Eskimo culture and traditions.

The homes are functional and practical in a country where fuel is scarce and expensive and temperatures are always low. The people have poverty only in the gadgetry that our society has decreed essential to a high standard of living. They lead a life of great variety, hunting and working tirelessly at times and working not at all at other times, and none is richer or poorer than his neighbor.

It makes one wonder. What are we struggling for?

Superstition strongly influenced the Eskimos' lives in the past. Most of the superstitions, and the fears they generated, now are gone, but they do have one great fear.

RUSSIAN INCIDENT

This great fear, of inadvertently landing on Russia's Big Diomede Island in the fog, is not superstition. It springs from a serious incident. Albert Lyakuk, who with his wife and 2-year-old son figured in this incident, told us about it.

Some of the Diomeders and most of their ancestors were born in Siberia or on Big Diomede Island. Occasionally they would return to visit relatives. In 1947 or 1948, 17 Diomeders in two boats set out for Siberia and stopped at Big Diomede to have their passports checked. They were unaware Russia had ruled against further visits.

The Russians took them into custody and held them 52 days. The Eskimos were put into tents and fed fish soup once a day. They were in bad shape when finally released.

"Do you still have relatives in Siberia, Albert?" I asked.

"Did have, but no more—no more," Albert answered, and then laughed. Albert always laughs at a tragic situation.

He sat silently for a moment. Then he said, "I thought we not going back here no more." He laughed again.

Since that time no one has known whether there still are Eskimos living on Big Diomede Island, and there is no contact with those in Siberia.

SALUTE TO BAKERSFIELD COLLEGE INTERNATIONAL EISTEDDFOD CHOIR

Mr. KUCHEL. Mr. President, in times when difficulties and problems involving American youth are the subject of wide and continuous discussion and study, we often are inclined to overlook commendable achievements of young people. Too often, insufficient attention is paid the great numbers of them who devote time, talents, and efforts to worthwhile purposes.

Accordingly, it is a pleasure today to note the return to their homeland of a group of 48 students of both sexes who are a credit to their Nation, their communities, their families, and their college and whose dedication offers encouraging hope they will become the finest type of citizens.

I wish to bring to the notice of my colleagues the return to the United States today of the Bakersfield College Choir, a mixed chorus organization, from a European trip marked by the winning of the International Eisteddfod choral competition held at Llan-

gollen, Wales. The group during its travels—expenses of which, incidentally, were met with money raised by the members through their own efforts—paid a visit to Pope Paul VI at his summer villa for a performance which won a standing ovation.

The justified pride felt in California over this group's activities will be intensified by the reception for these young people scheduled at the White House this afternoon by President Johnson. As a lifelong resident of California, I am delighted to salute such an upstanding assemblage of responsible and talented growing Americans.

THE WHEAT CERTIFICATE PLAN

Mr. YOUNG of North Dakota. Mr. President, farm programs of all kinds, no matter how meritorious, have been subjected to the most vicious and misleading attacks through magazine articles, newspaper columns, highly paid lobbyists in Washington, and a host of others. Most of these attacks are so untruthful that it is difficult to understand why so many people would be fooled and misled by them—but a great many are.

The pending wheat certificate plan is a good example. This plan was first proposed years ago by two great Republicans—the late Senator Charles McNary, of Oregon and Congressman Gilbert Haugen, of Iowa. It was known as the McNary-Haugen bill. It has received widespread support among wheat growers over these many, many years.

Recently the wheat certificate proposal has been subjected to unusually severe attacks by highly paid propagandists sponsored by some of the most profitable industries in the United States. I have reference to the millers, bakers, and some grain trade interests.

Mr. President, among those sponsoring and financing this campaign against the wheat certificate plan is a lobbying organization known as the Wheat Users Committee. This is financed for the most part by millers and bakers. These are the people who have reaped huge profits from declining wheat prices over the past 20 years.

During this 20-year period bakers have virtually doubled the price of bread and the price of wheat to the consumers today is lower than it was 20 years ago. Practically all of the big milling and baking concerns show unusually high profits. Their profits for the past year during which the wheat certificate program was in operation, with but one or two exceptions, are higher than they were last year.

Mr. President, it is refreshing to read a column appearing in today's daily newspapers by two reputable journalists, Rowland Evans and Robert Novak entitled, "The Bread Battle."

I hope that every Member of Congress will take the time to read this enlightening and accurate analysis of what this whole issue is about.

Mr. President, I ask unanimous consent to have this column by Rowland Evans and Robert Novak printed in the body of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 4, 1965]

THE BREAD BATTLE

(By Rowland Evans and Robert Novak)

Surprisingly for Lyndon B. Johnson's consensus-style Washington, Secretary of Agriculture Orville Freeman is sporting a large red badge on his lapel with this legend: "I will not bow down to the bread trust."

Freeman's "bread trust" is the big-five baking companies which collect nearly 60 percent of the industry's profits. These giants are battling over the new wheat program scheduled for House action soon.

This is indeed startling in the Washington of 1965 where, according to the gospel of consensus, big government, big business, and big labor are supposed to cozy up together. But there is no consensus on the farm front (perhaps because President Johnson takes little personal interest here). Instead, the climate is ripe for a rip-snorting battle reminiscent of Truman days.

In simplified form, this is what the fight is all about: The administration wants to raise the income of wheat growers. But to hold the line on the Federal budget, President Johnson has decreed a strict ceiling on farm spending.

How then could the wheat subsidy be financed? By raising the bushel fee that the baking companies now pay the wheat growers from 75 cents to $1.25. The bakers would have to absorb the cost or, more likely, pass it on to the consumer. Hence, foes call this fee "the bread tax."

Actually, Freeman tried an L.B.J.-style consensus. Early this year, when bread industry leaders met privately with him. Freeman thought they might accept some variation of the "bread tax." They didn't.

Freeman believes a compromise might have been found had it not been for a lobbyist named Maurice Rosenblatt—best known for his National Committee for an Effective Congress (which endorses and finances liberal candidates). But Rosenblatt is also a paid commercial lobbyist, and Freeman believes he prodded the bread industry into battle. For their part, bread executives say they never would have bought the Freeman scheme.

Whatever the cause, the end result is a Government versus business battle not seen since preconsensus days. The bread industry, claiming the plan will hike the cost of bread 2 cents a loaf, in courting big city Democratic Congressmen who never have been ecstatic about farm legislation.

Freeman is fairly bursting for the fight. In a memorandum distributed to Congressmen, he contends:

"The bread trust may be wringing its hands about the wheat farmers to throw up a smokescreen about its own monopolistic condition." Arguing that the price increase per loaf should be no more than seven-tenths of a cent, Freeman implies that the breadmen would pocket the extra 1.3 cents.

Although the issue is still in doubt, Freeman is the clear favorite.

Republican ranks are crumbling. Congressmen from wheat States just can't afford to fight a huge farm subsidy. It was Representative Robert Sole, a Goldwater Republican from western Kansas, who talked the House GOP Policy Committee out of taking a stand against the bill.

More important, the bread lobby hasn't been able to get through to urban Democrats in Congress who have breadbuyers, not wheatgrowers, as constituents.

Take the case of Representative JOSEPH RESNICK, a first-term Democrat from Dutchess County, N.Y. RESNICK has been besieged by protest mail (particularly from workers for the National Biscuit Co. (Nabisco) in Beacon, N.Y.) who were told the bread tax might shut down their plant. Instead of running in panic, RESNICK fired off this letter to Nabisco President Lee S. Bickmore in New York.

"I have noted that the National Biscuit Co., under your able leadership, seems to have done quite well in recent years. I also note that your personal salary and compensation has gone from $123,000 to $175,000. * * * For you as a responsible head of a large corporation to tell your employees that they will be out of business because of the increase in the price of wheat is despicable."

If the RESNICKS prevail, the message will be clear: For businessmen who would oppose the Great Society the best defense is not of offense. It's consensus.

MURRAY STEIN—WATER POLLUTION FOE

Mr. RIBICOFF. Mr. President, throughout the vast establishment of the Federal Government are thousands and thousands of competent, devoted, outstanding individuals who spend their lives helping to make our Nation and world a better place to live in. Such an individual is Murray Stein of the Department of Health, Education, and Welfare who since 1956 has headed a small branch in the Public Health Service responsible for enforcing the Federal Water Pollution Control Act.

As a former Governor and Secretary of that Department I know the delicate ground of State-Federal relations Mr. Stein must trod—with its many pitfalls and frustrations. And yet for almost 10 years he has handled his responsibilities in a most outstanding manner, achieving real pollution control in the process. Men like Murray Stein seldom receive the recognition due them. That is why I was so pleased this morning to read an article about him in the New York Times which I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WATER POLLUTION FOE: MURRAY STEIN

CLEVELAND, August 3.—Murray Stein, a husky, bespectacled, gimlet-eyed man with a flashing grin and a hardy Brooklyn accent, is a leader of the Federal Government's campaign against contamination of the Nation's waterways. He is also one of the Nation's notable diplomats without portfolio. As water pollution enforcement director of the Department of Health, Education, and Welfare—ranking only a few notches below Secretary John W. Gardner—Mr. Stein travels regularly from Washington to the various States with the unenviable mission of reversing the trend that has turned the Nation's leading watercourses into open sewers. Today he was the central figure at the opening of 2 weeks of interstate hearings on Lake Erie.

Federal law provides that intransigent polluters of interstate waters can ultimately be thrown in jail. Mr. Stein seeks to obtain compliance through prior steps more expeditious and more agreeable.

His technique is to preside over hearings at which State, municipal and industrial officials are confronted with evidence of pollution gathered by U.S. Public Health Service investigators, and then are invited, cajoled or maneuvered into subscribing to remedial programs.

NOT AN EASY TASK

Generally, this is not easy. Polluters, whether they are municipalities or industrial

establishments, are usually reluctant to admit antisocial deportment, to say nothing of spending the millions of dollars often necessary to neutralize liquid waste. State officials on occasion carry their reluctance to the point of challenging the constitutional right of the Federal Government to intervene at all.

"One of the most delicate and vexing social, economic and legal situations," Mr. Stein observed in starting the Cleveland hearing, "is to have one instrumentality of government telling another what to do, when the other one may not be ready to do it. It presents some very awkward problems."

Mr. Stein, a lawyer, copes with these problems by radiating amiability, soft-pedaling the compulsory nature of the proceedings, and resolving contretemps with casual remarks that end in a disarming chuckle.

"We're dealing with facts subject to scientific measurements," is his watchword. "Once we get agreement on the facts, the solutions will present themselves."

He lets off steam at afterhours cocktail and dinner gatherings with associates, punctuating these sessions with such exclamations as, "We're certainly getting a lot of jazz from the so-and-so people," or "Did you hear what that son of a gun from XYZ Co. had the nerve to claim?"

The net result of his onstage tact has been that in 34 enforcement cases to date, only one has reached the point of court proceedings. All have produced remedial programs, and in about a dozen cases, pollution has been ended or significantly reduced.

A FEDERAL CAREER MAN

Mr. Stein has had only one employer in his life, the U.S. Government. He was born in the East New York section of Brooklyn on October 17, 1916, the son of a food broker. He graduated from Thomas Jefferson High School and studied for 2 years at the College of the City of New York before seeking his fortune in Washington.

There, he worked as a printer's devil in the Government Printing Office, served as an Army medical technician during World War II and worked as a clerk in the Federal Security Agency's law office while studying law at George Washington University. On getting his degree, with honors, in 1949, he joined the staff of the security agency's general counsel.

Since then he has dealt with most of the many health activities that are now under the Department of Health, Education, and Welfare, ranging from vital statistics, home accidents and poultry sanitation to radiation hazards, shellfish sanitation and mental health.

He has been enforcement chief of the public health service's division of Water Supply and Pollution Control since the present pollution control law was passed in 1956.

Mr. Stein and his wife, the former Anne Kopelman, also of Brooklyn, have two teenage daughters. His hobbies are hiking and surf-swimming. He has no middle name.

The Steins live in Fairfax County, Va., in a conservative modern home. As one who spends most of his time prodding authorities all over the country into installing modern sewage treatment systems, Mr. Stein confesses somewhat sheepishly that his own residence is served by a well and a septic tank. But, he says, "we do have indoor plumbing."

TRIBUTE TO ADLAI STEVENSON

Mr. McGOVERN. Mr. President, Mr. Max Freedman, a recognized master of English prose, provided what I think may very well be the most beautiful tribute to the late Adlai Stevenson.

I ask unanimous consent that this masterful article from the Washington Evening Star of July 15, 1965, entitled "The Greatness of Adlai Stevenson," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Evening Star, July 15, 1965]

THE GREATNESS OF ADLAI STEVENSON

(By Max Freedman)

By the grace of his spirit and the splendor of his mind Adlai Stevenson turned the sting of defeat into a crown of glory. He earned more honor in misfortune, than most leaders gain in victory. He lost two elections, but he never lost the pride of his party or the admiration of his country. That garland can never wither, nor can time stain the radiance of his enduring renown.

In 1952, without his choosing, he took charge of a party divided by many quarrels and uncertain of its future. He gave it a fighting faith once more by making it confident of its purpose and destiny. That was his first great achievement.

Then he fought a campaign with the shining weapons of wit and eloquence and scholarship, never once picking up a dirty bludgeon or falling below the level of his own high theme. There had been nothing like it since the first campaign of Woodrow Wilson in 1912; and Wilson ranked with Jefferson and Lincoln among his three supreme heroes.

The world applauded and Americans were impressed; but an epigram can never defeat a legend; and Stevenson twice knew defeat on a humiliating scale.

What was the greatness of Stevenson? Even in death his complex spirit commands no unanimity. But on certain guiding principles, with the wisdom of the after years, all may agree.

Words were sacred to him because he refused to trifle with the truth. That is why he polished his speeches to the last reluctant minute, to the despair of his friends and the torment of reporters. He wished to say exactly what he meant. He was not seeking merely the sheen of eloquence, though eloquence often came in the crackle of a vivid epigram, the gaiety of a twinkling sarcasm, the sudden felicity of an inevitable phrase, or the exaltation of a moral appeal.

He had a higher aim in view than his place as America's prose laureate. He wanted words on the political platform to be used as counters of truth and never as weapons of deception. He has left us his example to shame those who fall below his standards.

Was Stevenson, the master of noble words, also the servant of noble causes?

His was the first prophetic voice in a national campaign that dared to denounce Negro wrongs as an outrage on American rights. There would never have been a Suez war if his advice had been followed in good time and if an international police force had been placed in the Gaza strip.

No one can take from Stevenson the distinction of being the first American statesman fully to recognize the definite end of the colonial era and the growing importance of the emergent nations.

He pleaded for a nuclear test ban treaty when others denounced this advocacy as theatrical folly. He strove for an end to the arms race though he knew the barbed stratagems of Communist power far better than most of his critics.

He argued with a certain spacious courtesy that made him for some 15 years the most admired and trusted spokesman of American policy on the world scene.

We have no way of knowing what leadership in the White House would have done to Stevenson. Lesser men have grown in stature and in power of decision. He, too, might have found resources of character within himself that would have provided the crowning proof of his greatness. It is more than an act of faith, under the shadow of death, to believe that this last felicity would have been granted to him.

Almost from the first it has been common talk among his friends that Stevenson's work as Ambassador to the United Nations was uncongenial to him. No one in that position can ever share fully in the shaping of policy. He must often speak from a brief prepared in Washington instead of crying aloud the mandates of his conscience.

But he served two presidents in this campaign for peace, though with a chafed spirit, because he knew he brought personal gifts to America's cause that were unique and invulnerable And two Presidents honored him deeply for it.

When his vagrant melancholy lifted, as it always did at the touch of wit or the challenge of a fresh idea, he could be a companion so beguiling that time folded its wings and crept away into a corner, until the cascade of talk at last came to an end.

He honored us all by refusing to stoop in order to conquer. Now we are left with a huddle of grief-stricken memories when only yesterday we had a valiant friend and a radiant champion.

Tread lightly, for here is name certain to blossom in the dust.

ON TALKING WITH THE VIETCONG

Mr. CHURCH. Mr. President, Joseph Kraft is one of the most perceptive American commentators on Vietnam. In the August 5 issue of the New York Review of Books, Mr. Kraft reviews the recent book of Jean Lacouture, a leading French expert on Vietnam, who has studied that country for the last 2 decades. Mr. Kraft has written an excellent review of Mr. Lacouture's book which contains a comprehensive account of events in Vietnam for the last decade. Mr. Kraft concludes his review, entitled, "Understanding the Vietcong," by saying:

Official apologists for our present policy, while acknowledging its dangers, often insist that there is no alternative * * * there remains an alternative well known to all politically alert Vietnamese. * * * It is the alternative of negotiations between the Saigon government and the Vietcong. Such talks are an absolute precondition to any reconciling of local differences. However, difficult to arrange they may now appear, direct discussions with the Vietcong will sooner or later have to take place if there is to be a settlement in Vietnam. For a struggle that began locally—and this is the central point to emerge from Lacouture's book—can also best be settled locally.

As one who has advocated discussions between the warring factions in Vietnam, including the Vietcong, I ask unanimous consent to have this review printed at this point in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

UNDERSTANDING THE VIETCONG

("Le Vietnam Entre Deux Paix," by Jean Lacouture. Editions du Seuil, 266 pp., 17 N.F.)

(By Joseph Kraft)

High strategic themes, bureaucratic interests, intellectual baggage and many other kinds of junk have been piled onto the war in Vietnam. It has been called a fatal test of will between communism and freedom. It has been described as the critical battle in the struggle between China and the

United States. It has also been described as the critical battle in the struggle between China and the Soviet Union. On its outcome there is supposed to rest the future of southeast Asia; and so it has also been sometimes described as the critical battle between China and India. At a minimum the Dr. Strangeloves of "sublimited war" claim that Vietnam poses the question whether a nuclear power can mobilize the kind of force required to contain guerrilla warfare. And with so much at stake it seems to make sense that the greatest power on earth should send as ambassador to a kind of Asian Ruritania its leading military man and, on two occasions, one of its best-known political figures.

To those who think it does make sense, which seems to include practically everybody in the United States, Jean Lacouture's new book on Vietnam will come as a kind of revelation. He announces his almost revolutionary theme in the opening sentence: "Vietnam," he writes, "exists." His book is about a particular place and a struggle for primacy there. It is, in other words, a political book. It deals with the elements and forces of the conflict, not as if they were apocalyptic and millennial events but as political phenomena. To read Lacouture after a dose of the official and even the journalistic literature which we get in this country is to pass from griffins and unicorns to Darwin and Mendel.

For writing a nonmythological political analysis of Vietnam, Lacouture has the ideal background. As a distinguished correspondent for various journals, including Le Monde, he has been to Vietnam repeatedly since he first went there on the staff of General Leclerc in 1945. He has visited both North and South Vietnam several times. He has written on his subject often and at length, notably in a biographical study of Ho Chiminh and as coauthor of a book on the Geneva truce of 1954. He knows all the leading figures on all sides from way back. Nor is he a narrow specialist. After a particularly baffling encounter with a Buddhist monk, for example, he can write: "Our seminaries also train specialists in verbal equivocation and suave silences, but never, in our climate, has the sacerdotal smile taken on such an evasive efficaciousness." Moreover, the politics of underdeveloped countries, so mysterious to most of us, and so parochial to those who know only a single country, are familiar stuff to him. With his wife Simone, Lacouture has written the best study to date of Colonel Nasser's Egypt; and one of the best on Morocco since independence. While obviously a piece d'occasion, his present book on Vietnam is of the same high quality.

His starting point is the regime of President Ngo Dinh Diem. Just how the United States became connected with Diem has become a matter of controversy. Ramparts magazine has recently published an account purporting to show that a knot of American Catholic politicos and professional anti-Communists, depending largely upon Cardinal Spellman, promoted our support of the Diem regime. Perhaps. But history has a way of demolishing theories that trace large consequences to little groups of men. Far more important is the point urged in a brilliant study of the Vietnamese war by the international lawyer, Victor Bator.[1] Bator's argument is that in 1954, for reasons of domestic politics, the Eisenhower-Dulles regime broke with the policy of moving in concert with Britain and France and tried to establish South Vietnam as a bastion of anti-Communist resistance. President Diem was merely the vehicle for that effort.

He had little chance to succeed. Not because, as some say, South Vietnam cannot exist as a separate political entity. In Vietnam too, it is different in the South. South Vietnam in fact is one of the most richly diversified areas in the world. Its topography includes mountainous areas peopled by primitive tribes, arid plateaus, and a great alluvial plain. It is a leading producer of rice—a crop requiring the kind of intense personal cultivation that breeds an independent peasantry. The diversity fostered by occupation is further promoted by religious custom: South Vietnam's 14 million people include large numbers of Catholics, Buddhists and Confucians, and all of them practice a kind of ancestor worship that places special emphasis on local custom. While Vietnamese political parties in the Western sense have existed only as affiliates of those that had grown up around the old political capital of Hanoi in the North, there remained—and remain—a multitude of local southern sects (Lacouture likens them to "armed leagues") that mixed banditry with religion. Thanks to a loose provincial reign, the French, as Lacouture points out, had governed this melange for decades with no more difficulties than those found in the sleepiest of domestic departments—"Herault and Lot et Garonne." Plainly, any southern regime that was likely to succeed would have to be pluralistic, offering great scope for local differences—and this was especially true for the regime of President Diem, a Catholic aristocrat from the high plains and thus markedly different from the majority of Vietnamese.

But if there was one thing the Diem regime lacked, it was sympathy for pluralism. The ruling family was imbued with an extra touch of fervor, something of the absolute. The President had an attachment to the ancient society of Annam—high aristocracy, closed castes, intellectual hierarchies * * * he wanted to revive the old order, the morality of the fathers, the respect for the master. His brother and political counselor, Ngo Dinh Nhu, saw in the strategic hamlets, a re-creation of the fortified towns of the Middle Ages that he had studied as a budding medievalist at the Ecole des Chartres. Another brother, Ngo Dinh Can, who ruled the northern provinces, lived in the old family mansion, dressed in the ancient Vietnamese style, and slept on the floor. Madame Nhu's war on night life and dancing was thus not a personal aberration, but a true expression of the absolute traditionalism that typified the regime.

Confronting a diversity of political factions, however, single-minded dogmatism can prevail only in a climate of strife—real or contrived. In the beginning the Diem regime had to fight against the sects and the remnants of French influence. In the course of this struggle, President Diem evicted the former Emperor, Bao Dai, and became President "in a plebiscite as honest as could be expected." But having taken the sects and the crown, the Diem regime did not know how to use its victory to develop harmony. Having won a battle, it preferred war to peace * * *. In 1955, any opponent was denounced as a relic of the sects of feudal rebels supported by colonialism. Beginning in 1956, any opponent is called a Communist. It was in this context that the regime initiated in 1956 a campaign against the Vietcong—a name manufactured by the regime and supposed to mean Vietnamese Communists, but actually embracing a far wider spectrum of political opinion. In the same spirit the Saigon regime, against the advice of the American Ambassador, publicly abrogated the clause of the 1954 Geneva agreement calling for reunification of Vietnam through free elections—a clause that Hanoi could certainly not have accepted at the time. But in the process of fighting the Vietcong, the regime called forth the two forces that were to prove its undoing.

One of these was the army of the Republic of Vietnam, or Arvin as it came to be called. In connection with Arvin, it is worth noting one of the intellectual sleights-of-hand common to Americans who believe it is good for this country to support reactionary governments abroad. After all, they say in the Montesquieu manner, democracy cannot be exported; the conditions that promote free institutions in the United States do not exist elsewhere, and one should not impose American mores uncritically. The group that most uncritically projects American ways, that is most ready to overlook and override local custom, and to ignore the tradition of centuries, is the American military. And nothing proves it better than Arvin.

It is an army created in the image of our own. It wears American parade dress and American fatigues. It rides around in jeeps and helicopters and jet planes. It is organized in corps, divisions, and companies and has special forces and ranger battalions. It has most of the weaponry available to American forces. It is full of keen young officers, trained at staff schools in the United States, bursting with energy and with clear answers to cloudy questions. What it does not have, of course, is the cultural base of the American army. It does not, to be specific, have a strong sense of discipline, nor does it have a tradition that discourages meddling in political affairs. On the contrary, Arvin was called into being by political affairs; and the younger the officers the more ardently political they tend to be. How could anyone imagine that a force so modern in its outlook, so uninhibited and unrestricted in its background, would for long yield pride of place to a regime as old-fashioned and backward-looking as the Diem government? As Lacouture points out, military plotting against the government got underway as soon as the army was organized. In 1960 and again in 1962 attempted military coups came very close to toppling the regime. Only by fantastic juggling, only by setting unit against unit and commander against commander and by planting spies and rumors everywhere was the regime able to maintain its hold over the army at all. It is typical that on the eve of the coup that succeeded, the regime itself was planning a fake coup to discover which of its generals were loyal. Sooner or later, in short, a military coup would have unseated Diem. As much as anything in history can be, his undoing by his own praetorian guard was inevitable—a consideration to bear in mind when there develops in Washington a hunt for scapegoats who will be charged with having lost Vietnam by causing the downfall of the Diem regime.

The second force brought into being by the absolutism of the regime was the Vietcong. In keeping with the Geneva Accords, almost all the guerrilla forces, and especially their leaders, who had fought for Ho Chiminh against the French moved above the 17th parallel to North Vietnam. There remained, however, in scattered areas of the South, Communists loyal to the North Vietnamese government in Hanoi. Precisely because they were disciplined Communists, loyal to the party line, they did not initiate trouble against the Diem regime. For Hanoi had troubles of its own—first the resettlement; then construction of new industry; and at all times a chronic food shortage and great difficulties with the peasantry. Feeling itself far more vulnerable than the Saigon regime, the last thing Hanoi wanted to do was to give the Diem government an excuse for intervention. For that reason, Hanoi protested in only the most perfunctory way when the clause providing for re-unification through free elections was unilaterally abrogated by Saigon. For the same reason, Hanoi tried repeatedly (and unsuccessfully) to make deals with the Saigon regime, offering to trade its manufactures for foodstuffs. And for exactly the same reason, Hanoi kept the Communists in the South

[1] "Vietnam: A Diplomatic Tragedy," Oceana Publications, New York.

under wraps. As one Communist quoted by Lacouture said later: "Between 1954 and 1958 we were pacifist opportunists. We hesitated to draw conclusions from the Diemist dictatorship and its excesses."

But, as Lacouture shows, other victims of the Diem regime were under no such discipline. Tribal leaders, local notables, independent peasants and small holders, not to mention intellectuals and professional men in Saigon, found themselves threatened by the militancy of the regime. Many were thrown into prison—for example, the present chief of state, Phan Khac Suu, and one of the more recent Premiers, Phan Huy Quat. Others resisted, and inevitably they looked to the Communists for support. Thus local pressure for the Communists to start things began to build up. As one Vietcong leader told Lacouture: "There was pressure at the base. An old peasant said to me: "If you don't join the fight we're through with you.'" (I have heard very similar explanation in my own talks with Vietcong officials.) In short, like almost all rebellions, the Vietcong revolt was not set off by some master planner working from the outside. It was generated by local conditions.

The course of events outlined by Lacouture follows this pattern exactly. The formal establishment of the National Liberation Front, or political arm of the Vietcong, was initiated at a meeting held in the U Minh Forest of southeast South Vietnam in March 1960. According to Lacouture, the chief document before the meeting was a letter urging the establishment of the Liberation Front written from a Saigon prison by a non-Communist who is now head of the front, Nguyen Huu Tho. While at least two of those at the March meeting seem to have been Communists, most of those on the spot were not. The chief items in the declaration that was then put out were purely local grievances. And it was only after the front was already in motion, in September 1960, that Hanoi gave it explicit support. As Lacouture puts it: "The leaders in Hanoi did not take this turn [toward backing revolt in the south] except under the express demand and the moral pressure of the local militants."

Once Hanoi had formally supported the front, there was no backing down. With the United States supporting the Saigon regime, there came about the famous buildup of military operation. In failing to see the complexity of the domestic pressures that drove the United States to underwrite Saigon, Lacouture misses a vital, the only flaw in his book. But how little of the underlying political situation has really been changed by this buildup. The confrontation, to be sure, has become more dangerous. The American role as backer of the Saigon regime, and especially its army, is now more exposed. So is Hanoi's role as supplier of men and weapons to the Vietcong. Still, there remains some independence in Saigon—witness the Buddhists' maneuverings and the Government crises that regulatrly catch American officials by surprise. The National Liberation Front retains a central committee that seems to be less than a third Communist, and that is, as it always was, especially oriented toward the problems of South Vietnam. While it is true that more Communists are to be found on the intermediary levels of the NLF, neither Lacouture nor others who know the Vietcong leaders well believe that they are fighting in order to impose a North Vietnamese Communist dictatorship on the South. The chief problem remains what it always was—how to find a political means of reconciling the great diversity of interest and opinion in South Vietnam.

Official apologists for our present policy, while acknowledging its dangers, often insist that there is no alternative. This is a little like the peddler selling pills during the Lisbon earthquake who replied, when asked whether the pills would do any good: "No, but what do you have that's better?" The comparison would be even more apt if the peddler had had a hand in starting the earthquake. Certainly it is true that the alternatives have been obscured by the resolute refusal of most of the American press to study carefully the politics of the war, including the politics of the Vietcong. But, in fact, there remains an alternative well known to all politically alert Vietnamese (though it is difficult to voice because of increasingly harsh American policy). It is the alternative of negotiations between the Saigon government and the Vietcong. Such talks are an absolute precondition to any reconciling of local differences. However difficult to arrange they may now appear, direct discussions with the Vietcong will sooner or later have to take place if there is to be a settlement in Vietnam. For a struggle that began locally—and this is the central point to emerge from Lacouture's book—can also best be settled locally.

LITTLEFIELD, TEX., RESIDENTS REVITALIZE THEIR CITY

Mr. YARBOROUGH. Mr. President, a fine example of cooperative effort by responsible citizenship is now being exhibited in the town of Littlefield, Tex. Without assistance from the Federal Government or the State, the residents of this small Texas town have joined together to undertake a massive beautification project for their downtown area.

I ask unanimous consent that an accounting of this beautification project from the Lubbock Avalanche Journal be printed in the RECORD to illustrate the cooperation and concern of Littlefield residents for the progress of their city in undertaking this progressive project.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BEAUTIFICATION—DOWNTOWN PROJECT SET AT LITTLEFIELD

(By Tanner Laine)

LITTLEFIELD.—While a lot of towns and cities were planning and talking about revitalizing their downtown business districts, Littlefield was doing something about it.

At a public meeting scheduled at 7 p.m. today in the county courtroom here, details of the do-it-yourself project will be launched.

Littlefield, a progressive town of 8,000, will undertake the first district beautification project of its type in the State.

This is no chamber of commerce pipe dream or municipal project. This is for real because it was instigated, and will be carried out, by property owners themselves.

EIGHTEEN BLOCKS INCLUDED

Here in a nutshell package is what will be done: The Littlefield business district will be improved to the tune of a $371,000 beautification project encompassing 18 blocks. The heart of the town's business district will take on the appearance of a neat and beautiful mall, complete to planter boxes, canopied rest stations and sidewalks of colored stone.

The plan calls for free parking and one way traffic flows.

How far away is all this from reality? Residents will be told tonight that work begins April 7.

The plan is sure fire. There will be no additional taxes to put it over. Merchants and businessmen will foot the bill on a front foot assessment basis.

One result is certain—Littlefield will emerge as one of the best groomed towns in the Southwest.

Official name of the project is: "Downtown Park 'N Shop." The name is a giveaway to the whole objective—an attractive downtown business area with parking facilities.

Parking will be free. Littlefield sacked its meters a couple of months ago. Also, several offstreet parking lots have been leased, paved, and will be ready when the project gets underway.

Both angle and parallel parking on the streets are provided in the project plan.

Beautification of the Littlefield downtown area will be centered primarily on Phelps Avenue, XIT and LFD (named for ranches) Drives (from 6th Street north to U.S. highway 84) and the accompanying side streets—2d, 3d, 4th and 5th Streets.

NO FEDERAL, STATE FUNDS

Backers of the project, the business folks of Littlefield, want it emphasized that not 1 cent of Federal or State money is involved. Littlefield residents are paying out of their own pockets.

Resistance is nominal. From the start, there was a 93 percent approval by business firms in the area to be revitalized. Since the start of the idea, the percentage of approval has risen.

What exactly will be done? First, the streets involved will be widened. Gleaming new 10-foot wide sidewalks in front of stores will be relaid in white concrete. Then 4-foot wide sidewalks of color ranging from coral to sapphire blue will be laid next to the streets. Composition of these sidewalks will be of crushed aggregate in multiple and harmonizing colors.

REST AREAS PLANNED

The planter boxes and canopied rest areas will be strategically located along the sidewalks and in places, projecting into the street.

Sidewalks will be expanded at the end of each block into platforms which have either 20 by 20 canopied benches or gardens.

A sample block would include 13 individual planter boxes in colored masonry, ranging in shape from rectangular to toadstool.

Each block will feature covered patio-type pedestrian crosswalks extending 22 feet into the street from both sides. A driving gap of 27 feet remains.

XIT and LFD Streets, which run parallel to Phelps Avenue, will be widened 6 feet. New sidewalks will be laid.

DUMPERS HIDDEN

Phelps Aveune stores have exits on both XIT and LFD. Dumpers behind stores will be hidden by attractive brick enclosures.

Each block on Phelps is 400 feet long. The angle parking will be 60 degrees. Parking on XIT and LFD will be angle and parallel on alternate sides of the street.

The traffic flow on one-way streets will be clockwise around the 18-block area to be beautified.

The whole area will be lighted with mercury vapor 54,000 lumen lights.

Alteration of utilities will be voluntary on the parts of Southwestern Public Service Co., Pioneer Natural Gas Co., and General Telephone Co.

SWPS has agreed to spend $72,000 of its own funds in relocating primary feeder circuits, including underground conductors. Pioneer has agreed to enlarge its mains underground and install new gas meters. General Telephone will install attractive pay telephone stations and install underground conduit for future use.

ASSESSMENTS LISTED

The 100 or more property owners will pay the major cost of $189,778. The fee assessed is $30.81 per front foot on Phelps; $13.27 on XIT and LFD Drives; and $7.58 per foot on side streets.

Contract for the $224,137 worth of improvements to 18 blocks of the business community already has been awarded.

The city will come in with a $59,000 share of the project including installation of pedestal-type traffic signals. A new 4-inch water line will be laid to supply the sidewalk gardens and planter boxes.

The whole package is new, new, new, according to residents. It all started when Dr. Bill Orr, Littlefield dentist, visited his son in Grand Junction, Colo. There he saw an example of what can be done. He brought home bales of literature, pictures, and data, and began to talk about what could be done for a city, as he sat with friends and businessmen drinking coffee. He sold Kenneth Ware on the ideas first.

Dr. Orr and Mr. Ware became cochairmen. A committee was organized in July 1964. A month later the city council OK'd the project. The chamber of commerce nodded approval, putting its collective shoulder to the job.

All the while, Mayor Bill Armistead has been a willing worker. Another strong supporter and worker is Dave Kucifer, general manager of the Countywide News. His editor Tom Donnelly is in the van of workers and supporters. So is city manager, J. W. Harrison. The list goes on and on.

In fact, it includes just everybody in Littlefield.

SENATOR TYDINGS FIGHTS TO SAVE SUBURBS

Mr. DOUGLAS. Mr. President, whatever the outcome of the debate today, the people of the United States will commend and congratulate the Senator from Maryland [Mr. TYDINGS] for his magnificent fight to protect the equality of citizenship of all persons regardless of where they may live. In particular, Senator TYDINGS has argued on behalf of the equal citizenship of the now underrepresented people of the suburbs.

A very useful article on this matter by an able reporter from Illinois now working from Washington, Mr. Bruce Ladd, appropriately was carried recently in the Paddock Publications in Illinois which serves mainly a suburban audience.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Paddock Publications, July 15, 1965]

DEMOCRAT SENATOR FIGHTING TO SAVE SUBURBS IN REMAP

(By Bruce Ladd)

WASHINGTON, D.C.—A tall, handsome Lindsay-type Democrat has spoken out sharply in the suburban interest.

He is freshman Senator JOSEPH D. TYDINGS, of Maryland, 37-year-old son of the late Senator Millard Tydings, who represented the Free State in the U.S. Senate for 4 terms.

Young TYDINGS took to the floor of the Senate last week to stress: "It is perfectly clear that reapportionment based solely on population will have its greatest effect in increasing suburban representation."

The Senator was discussing the relationship of the so-called Dirksen amendment to the Supreme Court's one-man, one-vote decision.

As reported in Paddock Publications on May 13, the amendment sponsored by Senate Republican leader EVERETT M. DIRKSEN, of Illinois, would allow a State to apportion one house of its legislature on a basis other than population if a majority of the State's voters approves.

In other words, passage of the Dirksen amendment would permit a State to overturn the Supreme Court ruling that geography is not a proper basis for apportioning legislative seats.

Senator DIRKSEN, probably the most clever political tactician on Capitol Hill, has been promoting his amendment in an unobtrusive, low-keyed manner so as not to stir too much opposition.

But TYDINGS has been stirred. He ably stood up to DIRKSEN when a Senate Judiciary subcommittee recently considered the amendment, and he is now standing up in public.

"Proponents of the 'rotten borough amendments' often contend that a fairly apportioned legislature would be dominated by a cohesive bloc of urban legislators controlled by a powerful political machine," TYDINGS told the Senate last week.

"They claim that minority interests outside the metropolitan areas will be ignored and their needs submerged to the demands of city dwellers. Such fears are not justified either by fact or by experience.

"It is simply not true that cities would dominate fairly apportioned State legislatures. There is no State in which the residents of a single city could elect a majority of the legislature."

To illustrate this last point, TYDINGS pointed out that New York City contains only 46.4 percent of the people of New York State and that Chicago has only 35.2 percent of Illinois' population.

What is more, there are only five States in which the combined population of the three largest cities constitutes more than 40 percent of the population of the State.

Equally significant, TYDINGS observed, is the fact that for 30 years the Nation's major cities have been losing population. Chicago declined from 44.2 percent of the State's population in 1930 to 35.2 percent in 1960.

"The major increase in population has been and will continue to be in the suburbs," TYDINGS said.

"Of our 23 largest cities, only 3—Houston, Dallas, and Atlanta—grew faster than their suburbs in the years from 1950 to 1960. For example, Chicago's population dropped by 1.9 percent from 1950 to 1960, while its suburbs grew by 71.5 percent.

"In any clash between the cities and the rural areas, the suburbs would hold the balance of power."

TYDINGS intends to make a speech every week on the subject of reapportionment. He feels strongly that the suburbs and cities must not be stripped of their new-found political equality.

He cited a study of the Illinois Legislature's urban-rural conflict which showed that, since 1955 when Chicago and Cook County took a numerical advantage in the house, in only 4 of the 332 rollcall votes was there a cohesion of more than 67 percent among the Chicago and Cook County representatives.

Two-thirds of the urban-oriented group of legislators managed to vote together only 1 percent of the time.

The Dirksen amendment has been reported favorably by a majority of the members of the appropriate Senate Judiciary subcommittee, but there is considerable doubt that it can pass the full Judiciary Committee, much less the Senate.

If TYDINGS is to carry the day and if suburban interests are to prevail, the amendment will die in committee.

THE GARDNER APPOINTMENT

Mr. McGOVERN. Mr. President, I would like to join with the educational world in congratulating the President, and the Nation, on the appointment of Dr. John W. Gardner, of the Carnegie Corp. and the Carnegie Foundation for the Advancement of Teaching, as a member of the Cabinet.

President Johnson could not have found a man better able to head the vital Department of Health, Education, and Welfare.

The Washington Post praised the appointment in its lead editorial July 28, commenting that Mr. Gardner is "a man of great reputation as an authority on education and a courageous innovator."

The President could not better have underlined his own personal commitment to the advancement of education than he has done by disregarding partisanship in this selection.

It has been my privilege during the past year to benefit from one of Dr. Gardner's studies: The Gardner report on AID and the universities.

It was the findings in that report on weaknesses in the present system of using our universities on foreign technical assistance projects which led to the introduction of S. 1212. The bill would provide American educational institutions undertaking projects in the less-developed countries with the support they need to build strength and competence to do their job well, and to train personnel for service in this highly important work.

David E. Bell, Administrator of AID, said of the Gardner report:

The report, as was to be expected, is forthright, lucid and provocative. It seems to me to lay the right kind of analytical basis, and to set out just the right kind of conceptual guidelines for AID and the universities to use in proceedings to work out practical improvements in our joint undertakings.

I am sure that the President, Congress and the Nation will find in the months and years just ahead that the Department of Health, Education, and Welfare under Dr. Gardner will become the source of many highly perceptive analyses of HEW programs and problems, and of proposals for their improvement which will strengthen all of the missions of that Department.

The appointment is a splendid one.

I ask unanimous consent to include in the CONGRESSIONAL RECORD the Washington Post editorial to which I have referred.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SECRETARY GARDNER

In the years that Anthony Celebrezze has been Secretary of Health, Education, and Welfare, his Department's responsibilities have been hugely expanded by a series of landmark laws. They ranged through fields as diverse as public relief, water pollution, and medical care for the aged. But the most important of them was the initiation of general Federal aid to local schools. The administration of school aid will be one of the most influential and demanding jobs in the Government of this country.

It is no derogation of Mr. Celebrezze to say that he was the architect of none of this legislation. As mayor of Cleveland for five terms and a man long tried in city politics, he was brought to the Cabinet as a spokesman for the recipients of Federal benefits.

His successor, on the other hand, is a man of great reputation as an authority on education and a courageous innovator. During the passage of the school aid bill, the

debate revolved essentially around the political and legal questions of racial discrimination and the relationship of public and parochial schools. Both of these issues will require tactful and firm administration. But beyond them lies the much greater question of the Federal grants as a lever to introduce education reforms.

President Johnson chose John W. Gardner to be the next Secretary after the close of the White House Conference on Education that he chaired last week. That Conference ended with a statement deploring the lack of imagination in the organization of American schools and their unwillingness to explore new ideas. No previous White House Conference had ever received quite so immediate and emphatic a Presidential endorsement of its conclusions.

A passion for education, for all of its children, has for a century been among the most creditable characteristics of American society. But for some time it has been clear that the last generation's curriculums are in profound need of revision. In Mr. Gardner, President Johnson has chosen a Secretary who came to his notice as a committed and articulate reformer in the educational field. The fact that he happens to be a Republican is wholly incidental to the enormous task that he has assumed.

A VACATION FOR CONGRESS

Mr. McGEE. Mr. President, the Casper Star-Tribune from my State has joined its voice to those proposing that Congress might well consider giving itself a summer vacation. As one who has spoken up many times over the past few years in favor of recognizing that the work of U.S. Senators and Congressmen is a full-time, year-round job, I welcome the support of one of Wyoming's leading newspapers.

As the Star-Tribune points out in an editorial published July 29, there is much legislative work remaining for Congress, while the situation in Vietnam continues to require our watchfulness. And, for those of us with growing families, the summer months present the only time when we can get together for a vacation.

Mr. President, I view the summer vacation as only a part of the picture, however. It will come when we stop kidding ourselves about early adjournment and accept the fact that legislating for the United States of the present day is, indeed, a year-round function and a job that requires that we in the legislative branch plan our duties accordingly. I ask unanimous consent that the Star-Tribune editorial, "A Rest Would Help," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A REST WOULD HELP

President Johnson's insistence on action on his entire legislative program at this session jeopardizes the Labor Day target for adjournment. He hinted as much, when he agreed to it, "on condition" that the major bills are acted upon. The growth of the war in Vietnam and the appropriations that may be needed to provide for men and material alone could delay adjournment.

For such reasons, the cry that Congress is now a year-round job and a fixed vacation is necessary should be seriously considered. The Supreme Court takes a 3-month vacation each year. The President gets away to his Texas ranch or to Camp David in Maryland as often as he can manage. Congress, the third coequal branch of Government, has no fixed time for relaxation and for renewal of those home ties without which it would be difficult for Members to get reelected.

An added reason for a summer vacation for Congress is that many Members have children in school and the family can only vacation together during the school and college holidays. That makes the summer months just about the only time they can get together.

INNOCENT VICTIMS OF CRIMINAL VIOLENCE SHOULD BE AIDED

Mr. YARBOROUGH. Mr. President, an excellent article in the August 1 Washington Post by John P. MacKenzie points out that the forgotten person in American society today is the victim of a violent crime. A person injured in an industrial accident is compensated for his losses even though his negligence in part contributed to the accident. A person receiving the same injuries in a criminal attack must bear all the costs even though he be completely innocent. I have introduced a bill providing compensation to the victims of violent crimes in areas of Federal jurisdiction. It is time that we in Congress address ourselves to this most inequitable situation.

I ask unanimous consent to have Mr. MacKenzie's article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 1, 1965]

A BELATED NOD TO THE VICTIMS OF CRIME

(By John P. MacKenzie)

In the debate over the rights of an accused criminal versus the rights of the public, is there anything that people can agree on? There seems to be one thing: the innocent victim of criminal violence should be helped.

Growing numbers of lawyers and judges are asking whether financial compensation for injuries might be the most practical aid to the "forgotten victim." California is trying the idea. Britain and New Zealand are experimenting with publicly run compensation plans and a bill to establish an American system has been introduced in the Senate.

Support for the idea has come from both those who criticize and those who defend current legal trends toward broadened rights of the accused in criminal cases.

On June 17, in introducing his bill to create a national Violent Crimes Compensation Commission, Senator RALPH W. YARBOROUGH, Democrat, of Texas, said:

"Many persons stand ready to assist the offender in protecting his constitutional rights through all the courts of the land. While society is weeping over the criminal, it is showing no such concern, indeed no concern, for the victim of the crime. Society is brutal toward the victims of crime, not against criminals."

A week later, Arthur J. Goldberg, then still a Justice and author of recent Supreme Court decisions expanding defendants' rights, said in a speech:

"I believe that we should give serious consideration to compensating victims of violent crimes because, in a real sense, the law has failed in protecting them."

BROAD PHILOSOPHY

The broad philosophy of most compensation proposals is based partly on realization that there will always be some criminal violence, no matter what.

If people swarm into cities, and by their mere presence en masse help create a climate for violence, they should share the bitter consequences of it, the philosophy runs. Criminal violence strikes at random. Whether the victim suffers only scratches and bruises or is seriously injured and nearly wiped out financially by hospital expenses, society has a responsibility.

Compensation proposals also are based on the generous instincts of Americans. When an Officer Tippit is gunned down in the wake of a President's murder, the public responds with thousands of volunteered dollars. Other victims doubtless would receive similar help if their plight were known.

Most compensation plans are not designed to cover all the sufferings of crime victims and their dependents. They represent a gesture by the State showing that society has not neglected them totally.

For example, a man wounded by gunfire during a holdup might receive an enormous civil judgment if he sued his assailant—providing that the culprit was caught and had the resources to pay the judgment. Under most compensation programs, such a shooting victim would be given medical expenses and lost wages.

Some plans are not geared to the victim's economic status, in keeping with the theory that compensation is not charity. California's plan is based partly on need and is administered by welfare officials.

All plans are drafted so that the State admits no absolute liability for injuries to citizens. To keep the plans simple and within budgetary bounds, the victim at best has limited recourse to the courts if he is dissatisfied by a compensation board's award.

Costs vary. California has budgeted $100,000 for the first year of its program. Britain paid out $31,000 during the first 6 months of its program.

Although the compensation concept can be traced back 4,000 years to the Code of Hammurabi, it is only in the last decade that its influence has been felt in modern law enforcement.

Principal credit has gone to the late Margery Fry, a British legal reformer whose articles and speeches led to creation of the Criminal Injuries Compensation Board which has operated for a year in Britain.

Miss Fry contended, among other things, that a society like Britain's, which has firm strictures about weapons in the hands of its citizens, must assume more responsibility for crime.

The British board requires victims to have reported their injuries promptly to the police or to have established their validity in court proceedings.

Property damage is not compensated because the system is geared to the impact of major disaster on earning power and the expense of medical care.

New Zealand has a similar compensation program which covers a list of specified violent crimes. Official cost figures and evaluations are not available, but early reports showed fewer claims and less expense than had been anticipated.

The Yarborough bill would provide a Compensation Commission for a crime of violence covered by Federal law, such as robbery of a federally insured bank. The Federal Commission would be limited to the District of Columbia and other Federal territory, but it could be a model for State governments.

Under the Yarborough bill, three well-paid, experienced lawyers would serve staggered 8-year terms on the Washington-based Commission. They would have broad powers and would not be restricted to courtroom rules of evidence.

The bill raises many problems, including that of keeping the compensation proceeding separate from the criminal trial, so that one would not prejudice the other.

This problem is not considered insoluble, but the bill's backers foresee months—maybe years—of study and discussion before Congress considers it actively.

Another problem—a political one—is that the debate might get bogged down in disputes over "socialized insurance" contentions or complaints against courts for being "soft on criminals," or against police for alleged laxity.

VIETNAM: STUCK TO THE TAR BABY

Mr. CHURCH. Mr. President, Arthur Krock, one of the Nation's most distinguished political columnists, published a telling column entitled "Trying To Get Loose From the Tar Baby," in the July 25 issue of the New York Times. Mr. Krock retells the fable, relating it to Vietnam, and comments:

Thus once more a fable serves as an excellent means to make a complex situation clear—in this instance one which could not even have been imagined at the time of the telling as a situation in which the United States would ever find itself. Certainly it is stuck hard in a tar baby. Certainly its own errors of foresight have stuck it deeper than was intended. Certainly one of the responsible factors is the concept of the mission of the United States as morally and militarily obligated to oppose the spread of communism anywhere in the world, singlehanded if necessary, and whether or not beyond our reasonable sphere of national security and interest.

I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN THE NATION: TRYING TO GET LOOSE FROM THE TAR BABY

(By Arthur Krock)

WASHINGTON, July 24.—The means employed by President Johnson and his principal advisers on the conduct of the war in Vietnam to call public attention to the urgency of their deliberations are justified by the gravity of the problem and the need to prepare the American people for whatever new sacrifices may be required of them. This atmosphere has been intensified for the purpose by daily official emphasis on the secrecy by which the President has bound the participants to reveal no detail of the conferences.

This elaborate public relations technique would lose its justification only if it should develop that the decisions of the conferences are not for the deeper involvement of the United States in the war, with the much graver portent the expansion would create. But the general impression among qualified observers is that that is the most unlikely outcome of the White House meetings.

DESPERATE PROBLEM

The decisions which have been in the making, or have been made, may be public property by the time this dispatch appears in print. But while they may encourage, and eventually fulfill, hope of at least moderating the desperate nature of the problem of Vietnam, their immediate product will be a more realistic coming-to-grips with its true magnitude than the administration has publicly conceded before.

The ways and the plights of men and of nations have been recorded, examined, analyzed and adjudged in countless works of history and fiction. And, as in the instance of Vietnam, contemporary writings and oratory have dealt with them in millions of words. But often the serious character of these plights has been made more comprehensible to humanity by humorous fable than by solemn exposition. Such a fable, uncanny in the comparison it invites with the involvement of the United States in Vietnam, is "The Wonderful Tar Baby Story."

APT NURSERY TALE

Like the other nursery tales Uncle Remus told to "the little boy" in Georgia long ago, this one concerned the unending effort of Brer Fox to catch and eat Brer Rabbit. An unusual series of errors of foresight by the rabbit had for the first time put him in a predicament from which no exit was in sight except down the fox's gullet. This menacing situation arose after Brer Fox, smarting under Brer Rabbit's recent success in making him look foolish in the matter of the "calamus root" hoax, fixed up a contraption of tar and turpentine that the fox named the tar baby, set up in the big road, and lay in the bushes to await developments.

He didn't have long to wait, as the tale was told, because very shortly Brer Rabbit came pacing down the road, lippity-clippity, clippity-lippity, as sassy as a jay bird. Brer Fox lay low. When the rabbit spied the tar baby he reared up on his hind legs in astonishment, and then, remembering his social obligations, wished it the time of day, praised the weather and inquired how the tar baby's symptoms seemed to segashuate that morning. No reply was forthcoming, and Brer Fox winked his eye and laid low.

At this point the offended Brer Rabbit lost his temper and proceeded on actions without looking ahead to their potential consequences. Continuing to get no response from the tar baby—to an inquiry whether deafness was the cause of its refusal to talk, or to information that Brer Rabbit could holler louder if this was necessary, or to the stated conclusion that the tar baby was stuck up and the obvious cure was to bust him wide open—Brer Rabbit fit the action to the word.

HITTING THE TAR BABY

First he blipped the tar baby on the side of the head, and his hand got stuck. The tar baby went on saying nothing and Brer Fox went on laying low. Second, the rabbit fetched a blip with his other hand, and that got stuck. The rabbit lost the use of his feet in the same way, and then the use of his head when he butted the tar baby cranksided, after getting no response to a demand to be turned loose.

At this planned-in-advance strategic moment Brer Fox arose from the bushes, looking as innocent as a mockingbird; observed that the rabbit appeared to be sort of stuck up that morning; rolled on the ground and laughed and laughed until he could laugh no more; and gasped out that this time Brer Rabbit would dine with him, to partake of some calamus root the fox had thoughtfully laid in, and no excuse would be accepted.

"Did the fox eat the rabbit?" the little boy asked Uncle Remus. He might have and he might not, was the reply: at any rate that was the end of the story for the present, though "some say" that "Jedge" Bear came to the aid of the rabbit, and some say he didn't. Which pretty closely matches the conflict in speculations of the outcome of Averell Harriman's mission to Moscow.

A FABLE CLARIFIES

Thus once more a fable serves as an excellent means to make a complex situation clear—in this instance one which could not even have been imagined at the time of the telling as a situation in which the United States would ever find itself. Certainly it is stuck hard in a tar baby. Certainly its own errors of foresight have stuck it deeper than was intended. Certainly one of the responsible factors is the concept of the mission of the United States as morally and militarily obligated to oppose the spread of communism anywhere in the world, singlehanded if necessary, and whether or not beyond our reasonable sphere of national security and interest.

But fables are not necessarily conclusive as analogies to the courses of men and nations, only of the durable origins of the human tendency to err. If Brer Rabbit had been a real member of his species instead of the quasi-human Uncle Remus suggested by giving him speech, he would never have assumed the arrogant role of lord of the highway in "The Wonderful Tar Baby Story."

WOMAN SUFFRAGE IN WYOMING

Mr. McGEE. Mr. President, my State, Wyoming, is known far and wide as the Equality State. It is a name we like, deriving as it does from the fact that Wyoming was the first jurisdiction in the Nation to grant women equal suffrage. We took that step while still a territory in 1869. When Wyoming entered the Union 75 years ago it became, also, the first State to accord women an equal right to vote and to hold public office.

Mr. President, Dr. T. A. Larson, a distinguished western historian, who is head of the department of history and director of the School of American Studies at the University of Wyoming, as well as a valued colleague of mine, has traced in definitive terms the history of this landmark legislation. It appeared recently in the Pacific Northwest Quarterly and is slated for somewhat fuller treatment in Dr. Larson's "History of Wyoming," scheduled for publication in the fall. I ask unanimous consent that Dr. Larson's article "Woman Suffrage in Wyoming," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WOMAN SUFFRAGE IN WYOMING

(By T. A. Larson)

(NOTE.—T. A. Larson is head of the department of history and director of the School of American Studies at the University of Wyoming. The present article is a condensation of parts of two chapters in his "History of Wyoming," to be published by the University of Nebraska Press in the fall of 1965.)

In the preface to "Laws of Wyoming, 1869," Territorial Secretary Edward M. Lee singled out one law for special attention: "Among other acts, a law was passed enfranchising women; thus, by a single step, placing the youngest territory on earth in the vanguard of civilization and progress." Lee was, of course, right in focusing attention on this act, for Wyoming was the first U.S. territory, and later would be the first State (1890), to give women full rights to vote and hold office.[1]

[1] The legislature was small, 9 in the upper house, which was known as the council, and 13 in the house of representatives. All legislators were Democrats. On final passage they voted 6–2 and 7–4. The Republican Governor, John A. Campbell, after 4 days of indecision, signed the act, which reads as follows: "Female Suffrage, chapter 31, An Act to Grant to the Women of Wyoming Territory the Right of Suffrage and To Hold Office.

"Be it enacted by the Council and House of Representatives of the Territory of Wyoming:

"SECTION 1. That every woman of the age of 21 years, residing in this territory, may at every election to be holden under the laws thereof, cast her vote. And her

No other action of the 1869 legislature, or of any other Wyoming Legislature, has received so much attention.

The question is often asked, Why did woman suffrage come first in Wyoming? As might be expected, causation was complex, and the answer, if it is to be worth much, cannot be given in a few words. It was certainly not a bolt from the blue. Limited suffrage rights, for example in school elections, had been given to women from time to time in various parts of the country ever since 1776 when a few women had voted in New Jersey. Since the 1840's suffragettes had been campaigning vigorously in the East. A woman suffrage weekly, the Revolution, began publication in New York City in 1868. The Cheyenne Leader said in October 1868: "There are few of our weekly exchanges that we peruse with more interest than we do the Revolution. * * * The Revolution is bound to win."

Woman suffrage amendments were proposed in both houses of Congress in 1868, and the American Woman Suffrage Association was organized in 1869. Woman suffrage bills had been introduced in several State and territorial legislatures. One house of the Nebraska Legislature had passed such a bill in 1856, and the Dakota Territorial Legislature had failed by just one vote to pass a woman suffrage bill in January 1869. Clearly the conditions were ripe for a legislative victory somewhere. The Wyoming legislators had the option of jumping in at the head of the parade or of watching it pass by. Had they failed to act as they did in December 1869, the honors would have gone to Utah Territory, whose legislators were right at their heels; Utah adopted woman suffrage in February 1870.

Apart from the national pressures which promised a breakthrough somewhere very soon, certain conditions made it probable that victory would come first in a western territory. One factor was the scarcity of women. With only one woman in Wyoming over 21 for every six men over 21 (1870 census), adoption of women suffrage was less revolutionary than it would have been where there were as many women as men.

Western territories were desperately eager for publicity which would attract population. Free advertising was a common explanation in the 1870's and 1880's for Wyoming's action. The Cheyenne Leader, for example, said, when the act was adopted: "We now expect at once quite an immigration of ladies to Wyoming"; and it added in March 1870 that this legislation was "nothing more or less than a shrewd advertising dodge. A cunning device to obtain for Wyoming a widespread notoriety."

In the 1890's, the historian, C. G. Coutant, interviewed surviving members of the 1869 legislature. He reported that "One man told me that he thought it right and just to give women the right to vote.[2] Another man said he thought it would be a good advertisement for the territory. Still another said that he voted to please someone else, and so on."[3]

It was often said in the early days that the whole thing was done as a joke. Strongest support for this interpretation lies in an editorial in the Cheyenne, Wyo., Tribune, October 8, 1870, apparently written by Edward M. Lee, who had been secretary of the territory in 1869:

"Once, during the session, amid the greatest hilarity, and after the presentation of various funny amendments and in the full expectation of a gubernatorial veto, an act was passed enfranchising the women of Wyoming. The bill, however, was approved, became a law, and the youngest territory placed in the van of progress. * * * How strange that a movement destined to purify the muddy pool of politics * * * should have originated in a joke. * * * All honor to them, say we, to Wyoming's first legislature."

Since Secretary Lee, himself a champion of woman suffrage, worked closely with the legislators, his testimony is important, although he did not say that everyone involved was joking, and William H. Bright, who introduced the bill, later denied that he had done so as a joke.

Gov. John A. Campbell, of Wyoming, was reported to have said in Boston in 1871 that "no public discussion preceded passage." While the bill may not have been discussed much, the subject of woman suffrage was often discussed in the Cheyenne newspapers during the months preceding the legislature's action. Much of the newspaper comment concerned the activities of Anna Dickinson, a nationally known suffragette. After reading about her in an Omaha paper, the editor of the Cheyenne Leader, Nathan A. Baker, proposed in June 1869: "Let's try to get her here." Ten days later, June 17, Miss Dickinson passed through Cheyenne on her way to fulfill speaking engagements in California. The Leader reported that when the "celebrated lady" stepped out on the platform for a breath of air, she was "surrounded by a crowd of staring mortals. She sought refuge in a passenger coach. She was then subjected to an enfilading fire from the eyes of those who succeeded in flattening their noses against the car windows. * * * Anna is good looking. * * *"[4]

After it was announced that Miss Dickinson would lecture in Cheyenne on her way east the Leader hailed her approaching visit as "quite an event in our city" and as "an opportunity to listen to one of the most entertaining and graceful of female orators." On September 24, 1869, Secretary Lee introduced Miss Dickinson to "some 250 people whom curiosity had attracted," according to the report in the Leader the next day. Governor Campbell was in the audience, but out-of-town legislators probably were not present, since the legislature did not meet until mid-October. The editor of the Leader had little to say about Miss Dickinson's message, but he noted that "in person she is rather below medium height, and well formed; her face is rather of the oval type."

Another woman suffrage lecturer, Miss Redelia Bates of St. Louis, spoke in Cheyenne on November 5, 1869, just a week before William H. Bright announced that he intended to introduce a woman suffrage bill. The house of representatives had voted to let her use its hall, which she did. The Leader had made only a few comments about woman suffrage since Miss Dickinson's visit in September, but in anticipation of Miss Bates' arrival, it reported that she was beautiful and talented and that she had enjoyed a successful tour through Colorado. Just how many paid the advertised price of 50 cents to hear Miss Bates is in doubt; the Tribune reported "a large and appreciative audience," the Leader an audience "though not large * * * select and appreciative."

The Leader praised the lecturer's charm, asserting that "her presence would make any home a heaven," but it did not yet accept her argument. The Tribune, on the other hand, found her both charming and persuasive: "Miss Bates is exceedingly prepossessing in personal appearance. Her arguments were unanswerable, except upon the basis of prejudice." Probably the Tribune review was written by Edward M. Lee, for he was financial backer of the paper and often wrote for it.

After Miss Bates' visit to Cheyenne, the Leader refrained from ridiculing woman suffrage during the legislative session. When William H. Bright introduced his bill, the Leader, under the heading, "Interesting Question," assumed a position of neutrality: "It will be up for consideration tonight, at the evening session, on which occasion many of our citizens will doubtless find it convenient to attend." When the bill passed both houses, the Leader's comment was noncommittal: "Ladies, prepare your ballots."

While awaiting Governor Campbell's decision, the Leader indicated qualified approval: "Although we have not yet been fully convinced of the wisdom or necessity of the measure, yet we have something of a curiosity to witness its practical operation and results, and we hope, as we believe, that Governor Campbell will approve the bill." Nathan Baker, editor of the Leader, was never an ardent supporter, but he had come a long way since Anna Dickinson first visited Cheyenne in June. And when the Governor signed the bill, Baker showed that, while he had been overcome temporarily by the charm of Redelia Bates, he was still loyal to Miss Dickinson: "Won't the irrepressible 'Annie D' come out here and make her home? We'll even give her more than the right to vote—she can run for Congress."

Unlike the Leader, the Tribune needed no conversion. It greeted passage of the bill with the accurate judgment that it "is likely to be the measure of the session, and we are glad our legislature has taken the initiative in this movement, which is destined to become universal. Better appear to lead than hinder when a movement is inevitable." The Tribune a week later hailed the Governor's signature with the headlines, "Wyoming Suffrage: Wyoming in the Van, All Honor to the Youngest Territorial Sister."

Although it is manifest that Baker, who was young (27) like most Wyoming men of the period, was attracted by Miss Dickinson (26) and Miss Bates (age unknown but young), he was repelled by Susan B. Anthony (49), whom he described in February 1870 as "the old maid whom celibacy has dried, and blasted, and mildewed, until nothing is left but a half crazy virago." One must conclude that it was fortunate that Miss Dickinson and Miss Bates, rather than Miss Anthony, came to Wyoming to promote woman suffrage in the autumn of 1869.[5]

Among those who joined the woman suffrage parade in Wyoming, William H. Bright is the neglected central figure. A Virginian, he had served in the Union Army (not Con-

---

rights to the elective franchise and to hold office shall be the same under the election laws of the territory, as those of electors.

"SEC. 2. This act shall take effect and be in force from and after its passage.

"Approved, Dec. 10, 1869."

[2] This is the reason stated on various occasions by William H. Bright, who introduced the bill.

[3] Letter from C. G. Coutant to Frank W. Mondell, no date, on file in State archives and historical department, Cheyenne, Wyo.

[4] In several other articles in subsequent weeks, the Leader referred to Anna as "the female humbug," as one who lectured for the love of money and notoriety, and as "the pepper" of the women's rights movement as contrasted with "the vinegar," Susan B. Anthony.

[5] Miss Dickinson was a prominent figure in the national woman suffrage movement. See Giraud Chester, "Embattled Maiden: The Life of Anna Dickinson" (New York, 1951). Probably the greatest moment of glory for this "Queen of the Lyceum" was in 1864, when, at the age of 21, she addressed the Congress of the United States, at its invitation, with President and Mrs. Lincoln present. On that occasion she talked for more than an hour on the conduct of the war, abolition, and in praise of the President. Redelia Bates, on the other hand, did not attain fame; she was not even mentioned in the six-volume "History of Woman Suffrage," by E. C. Stanton, S. B. Anthony, M. J. Gage, and I. H. Harper (Rochester, N.Y., 1881–1922).

federate Army, as is usually said); he was attached as a major in the office of Chief Quartermaster in Washington, D.C., in 1864. After the war he had a Federal job for a time in Salt Lake City, and then in 1868 he took his family to South Pass City, Wyo., where he opened a saloon and later worked as a miner. In Wyoming he was known as colonel, although his promotion beyond the rank of major cannot be verified. After his September 1869, election to the council (upper house) of the territorial legislature, his colleagues elected him president of that body, and he proved to be a conscientious, unassuming presiding officer. Late in the legislative session, he left the chair to introduce the woman suffrage bill.

One who introduces a bill normally gets credit for it, and this was true for Bright as long as he was around to defend himself. The Cheyenne Leader, 2 months after the act was adopted, gave Bright full credit for it and remarked that "Bright, of Wyoming, is already immortal." For the next 20 years, he was generally honored as the person mainly responsible for establishing woman suffrage in Wyoming.[6] Then gradually a legend emerged, according to which Bright had introduced the bill at the request of Mrs. Esther Morris, 56-year-old wife of one of Bright's competitors in the South Pass City saloon business. In 1890 Mrs. Morris' son by her first marriage, Edward A. Slack, who had become an editor in Cheyenne, began calling her "Mother of Woman Suffrage." One can only guess how Bright would have reacted had he been told that Mrs. Morris was beginning to receive credit for instituting woman suffrage in Wyoming. Bright had left Wyoming in the early 1870's, was heard from in Denver in 1876, and then faded from the memories of Wyoming people, although his death in Washington, D.C., was reported in 1912.

The capstone of the Esther Morris legend was put in place in 1919 when an old man, H. G. Nickerson, of Lander, came forward with a tale about a tea party which he said he had attended at Mrs. Morris' home in South Pass City in September 1869. In a letter to a Lander newspaper, Nickerson recalled that at this tea party Mrs. Morris had obtained a promise from Colonel Bright that he would introduce a woman suffrage bill if he were elected. Nickerson's story might have been scouted but for the fact that it promptly received the imprimatur of Dr. Grace Raymond Hebard, militant feminist at the University of Wyoming. To the satisfaction of most people, Miss Hebard was able to complete the transfer of credit from Colonel Bright to the Mother of Woman Suffrage. In 1955, Mrs. Morris, who had died in 1902, was named the State's outstanding deceased citizen; and soon thereafter statues of her were placed in Statuary Hall in Washington, D.C., and in front of the State capitol.[7] Nevertheless, on the basis of verifiable evidence, Colonel Bright must still be regarded as the leading actor in the drama.

The chief supporting actor may well have been Edward M. Lee, Secretary of the Territory. As a member of the Connecticut Legislature in 1867, he had introduced a woman suffrage amendment to the Connecticut constitution. (The amendment failed to pass.) In Wyoming his devotion to women's rights was unexcelled. His daily contact with the legislators and the respect with which they regarded him are matters of public record, as are several enthusiastic suffrage articles which he published in the Wyoming Tribune. Possibly he wrote Bright's bill, as his relatives later insisted, since Bright was poorly educated and lacked experience in writing bills. Curiously the archaic word "holden," which was used by Connecticut legislators in 1867, was used in the Wyoming suffrage act. In all other places where it might have been used in the Wyoming session laws of 1869, we find "to be held" rather than "to be holden." At any rate, Lee cannot be denied a place among the persons who might have been influential in encouraging Bright to introduce the woman suffrage bill.

Another person who might have influenced Bright was his attractive young wife, who was 25 in 1869 when he was 46. Contemporaries said that she was a firm believer in woman suffrage and that the colonel adored her. The 1879 pamphlet "Nine Years of Woman Suffrage in Wyoming," suggested that Mrs. Bright might have been the source of the suffrage measure. Ben Sheeks, member of the house of representatives from South Pass City, knew Mrs. Bright and Mrs. Morris well. He wrote to Dr. Hebard at the University of Wyoming in 1920 that "Mrs. Bright was a very womanly suffragist and I always understood and still believe, that it was through her influence that the bill was introduced. I know that I supposed at that time that she was the author of the bill. What reason, if any, I had for thinking so I do not remember. Possibly it was only that she seemed intellectually and in education superior to Mr. Bright."

Sheeks said he thought Esther Morris was too mannish to influence Bright.[8]

Although Esther Morris was no doubt an advocate of woman suffrage, it cannot be established that she influenced Bright or anyone else. She was not the usual type of reformer, since she campaigned for no public office for herself or others, wrote nothing except a few letters for publication, and made no public addresses except for brief remarks on four or five occasions. There is no evidence to suggest that she was in Cheyenne during the legislative sessions of 1869 and 1871. Governor Campbell never mentioned her in his diary for the years 1869–75, although he mentioned many men and women with whom he dealt during those years. Hubert Howe Bancroft did not mention her in his "History of Wyoming" (1890). In short, the advice she is reputed to have given to Susan B. Anthony, "We don't want any agitation," is consistent with all that is known about her career.

One suspects that Edward M. Lee and Mrs. Bright had more influence on Colonel Bright than did Esther Morris, but the arguments in their favor cannot be accepted as conclusive without Bright's approval, which was never given. The evidence warrants giving major credit for woman suffrage in Wyoming to Bright and further credit to the other legislators who voted for it and to Governor Campbell. In the background were such advocates as Edward M. Lee, Mrs. Bright, Mrs. Morris, Mrs. M. E. Post, Mrs. Seth Paine, Mrs. M. B. Arnold, Judge J. W. Kingman, Anna Dickinson, Redelia Bates, and J. H. Hayford. It should not be forgotten, moreover, that innumerable men and women in the East had set the stage and that without their efforts there would have been no show in Wyoming in 1869.

Many questions remained to be answered in the next few years. Would women go to the polls? Would they and should they aspire to public office? Would they make good officeholders, good jurors? How would women suffrage affect politics, government, and public morality?

Two months after the suffrage measure was adopted, Mrs. Esther Morris, the housewife from South Pass City, was appointed justice of the peace by county commissioners at the suggestion of Judge J. W. Kingman, district judge of the Territory, and with the approval of Acting Gov. Edward M. Lee. The appointment gave her considerable fame, which was enhanced many years later by the tea party story. The fact that she served as justice of the peace in South Pass City, a town of only 460 population, 80 miles from a railroad, held accurate reporting to a minimum but invited apocrypha. During her 8½-month tenure in office, she handled some 70 typical justice of the peace court cases and showed that women were capable of doing such work.[9]

A second test of woman suffrage occurred in March 1870 when women served on petit and grand juries in Laramie. Two of the Territorial judges persuaded the first six women summoned to overcome their desires to be excused. The women who participated with men on petit and grand juries in Laramie in 1870 and 1871 and in Cheyenne in 1871 appear to have been more conscientious than were the men who served with them. These women, like Mrs. Morris, contributed to the success and reputation of the Wyoming experiment. Nevertheless, Wyoming opinion was divided on the subject of woman jury service. The principal objections were the disruption of home life and the added expense of providing two bailiffs and two sets of overnight accommodations. New judges after 1871 ceased putting women on juries on the grounds that jury service was not an adjunct of suffrage.

---

[6] J. H. Hayford, editor of the Laramie Sentinel, in his newspaper columns in January, 1871, and again in January, 1876, claimed major credit for himself. In his weekly of Jan. 31, 1876, however, he backed down, after being challenged by three other editors. He accepted their conclusions that the honor and credit should go to Colonel Bright. In a letter to the Denver Tribune, Jan. 15, 1876, Bright, who was then living in Denver, had denied Hayford's claim to credit and had taken credit for himself.

In 1879 a pamphlet entitled "9 years of Woman Suffrage in Wyoming" was published in Boston. The unidentified author quoted a number of Wyoming people who described the progress of the experiment and generally judged it to be successful. Nothing, however, was said about causation, except for a report of an interview with Governor Campbell in 1871 in which it was said that "The measure is said to owe its origin to the wife of the president of the council." A copy of the 1879 pamphlet is in the possession of Mrs. Jack Meldrum, of Buffalo, Wyo.

John W. Kingman, associate justice of the Wyoming Supreme Court, 1869–73 and thereafter an attorney in Laramie, wrote in 1885 that Bright "was the author of the woman suffrage bill, and did more than all others to secure its passage."

[7] The promulgation and propagation of the legend of Esther Morris will be discussed at some length in my forthcoming "History of Wyoming."

[8] Grace Raymond Hebard, "Woman Suffrage" file, University of Wyoming Library.

[9] The Letterpress Book, secretary of state, Wyoming, preserved in the State archives, Cheyenne, shows that Secretary Lee transmitted commissions to Mrs. Caroline Neil, Point of Rocks, and Mrs. Esther Morris, South Pass City, on the same day, Feb. 17, 1870. Both had been recommended by Judge J. W. Kingman, and each was congratulated by Lee "upon holding the first judicial position ever held by woman." The copy of Mrs. Neil's letter precedes that of Mrs. Morris in the pressbook, but Mrs. Neil was delayed in qualifying, first because of her English citizenship and later because of the nature of her bond. Although Mrs. Neil seems never to have been mentioned in Wyoming history books, she probably did serve, even though her docket cannot be found. The 1870 census lists her as "justice of the peace," and she was mentioned as a justice in a few 1870 newspapers; for example, "Frank Leslie's Illustrated Newspaper," June 25. On Feb. 28, 1870, Secretary Lee transmitted a commission as justice of the peace to a third woman, Mrs. Francis C. Gallagher, South Pass City, but there is no evidence that she ever served in that office.

The women of Wyoming had their first opportunity to vote in September 1870. Doubts as to whether many of the eligible 1,000 women would go to the polls were dispelled when most of them turned out. Newspaper editors argued over the impact of female participation. The Cheyenne Leader stated that the women divided their votes evenly between the two parties, thus increasing the aggregate vote but not affecting the final outcome. The only perceptible difference, said the Leader, was the maintenance of better order at the polls. The Laramie Sentinel and the Wyoming Tribune, on the other hand, contended that more women voted Republican than Democratic. The Tribune asserted that the successful Republican candidate for Delegate to Congress, Judge W. T. Jones, got some of the female votes because he was uncommonly handsome. The Sentinel concurred that the women had tipped the scales in favor of Jones. All of the editors agreed that the presence of women inhibited drunkenness and rowdyism at the polling places: "There was plenty of drinking and noise at the saloons," noted one observer, "but the men would not remain, after voting, around the polls. It seemed more like Sunday than election day." [10]

And so the women provided encouraging answers to questions about the experiment in woman suffrage. Meanwhile, the bonanza of free advertising was smaller than expected. Polygamy in Utah was attracting more attention than woman suffrage in Wyoming, and the Franco-Prussian War got most of the headlines in 1870. True, short notices about Wyoming suffrage activities appeared in many Eastern publications in 1869 and 1870, but the advertising bonanza looms large only when the long-term accumulation is taken into account.

The woman suffrage weekly, the Revolution, used the headline "The Deed is Done" over its report of the passage of the woman suffrage act, quoted the text of the bill in full, and concluded with the statement: "It is said [accurately] there is not one Republican in the Legislature of the Territory." [11] The New York Times gave brief front page notice to the first use of women on a jury in Laramie. "Frank Leslie's Illustrated Newspaper" on April 2, 1870, reported that "Mrs. Esther Morris, one of the new justices of the peace in Wyoming, is 57 years old. On the first court day she wore a calico gown, worsted breakfast-shawl, green ribbons in her hair, and a green necktie." And on June 25, 1870, this same newspaper reported that "Mrs. Morris and Mrs. Neil continue to exercise their functions as justices of the peace in Wyoming. They are the terror of all rogues, and afford infinite delight to all lovers of peace and virtue." [12]

Two reasons why easterners were not electrified by the news that Wyoming was experimenting with woman suffrage are spelled out in a comment made by the Nation, March 3, 1870:

"The experiment is also being made in Wyoming Territory; but the women there are but a handful, and, it is said, leave much to be desired, to use a very safe and convenient Gallicism, on the score of character, so that their use of the franchise will hardly shed much light on the general question."

On the other hand, Mrs. M. E. Post, of Cheyenne received much applause and considerable newspaper comment for her address at the National Woman Suffrage Convention in Washington, D.C., in January 1871.

[10] Stanton et al., "History of Woman Suffrage, III," 736.

[11] "The Revolution, IV, No. 24" (Dec. 16, 1869), 377. I have used the Huntington Library file of this weekly.

[12] I have used the Huntington Library file of "Frank Leslie's Illustrated Newspaper."

Later in 1871, after 2 years of woman suffrage, Wyoming's Second Territorial Legislature came very near ending the experiment. An attempt to override Governor Campbell's veto of the repeal measure failed by only one vote. However, only one member of the 1869 legislature was back in 1871, not because of voter rejection, but because only two of the 1869 legislators stood for reelection. The one returning member was South Pass City attorney Ben Sheeks. He now became speaker of the house of representatives and spearheaded the drive to end the experiment, even as he had been its principal opponent in 1869.

Whereas the 1869 legislature had been completely Democratic, a few Republicans turned up in 1871—just enough to keep the Democrats from overriding the Governor's veto. All of the Democrats voted for repeal, mainly it seems because a majority of the women were reputed to have voted Republican, while all of the Republicans predictably opposed repeal. "Am offered $2,000 and favorable report the committee if I will sign Woman Suffrage [repeal] Act," Governor Campbell noted in his diary; but he could not be bought.[13] Laramie women submitted a petition praying for retention of woman suffrage. There was no petition from South Pass City; Mrs. Esther Morris apparently was following her usual policy of leaving it to the men.

Though their rights were saved, the women of Wyoming soon learned that the men, who were in an overwhelming majority, were not interested in having women engage in political activity beyond exercise of the franchise. After she had completed the partial term for which she had been appointed. Esther Morris was not nominated for election to a regular term. Only Edward M. Lee expressed public regret, writing in his Wyoming Tribune that he was sorry "that the people of Sweetwater County [new name for Carter County] had not the good sense and judgment to nominate and elect her for the ensuing term."

After 1871 there was never any serious threat to woman suffrage in Wyoming, as virtually all substantial citizens rallied to the cause. E. A. Curley, roving correspondent for the London Field, noticed, as others had, that woman suffrage tended to weaken the influence of the numerous young, transient, male "irresponsibles," because "The married man who has come here for permanent residence has, practically speaking, two votes against the one which the roving man is able to cast." [14]

Getting the right to vote did not mean immediate economic equality. In March 1874, Herman Glafcke, the new editor of the Cheyenne Leader, complained that, despite the law about equal pay adopted in 1869, "For the same work much less is paid (even here in Cheyenne, where woman's labor is scarce) to women than is paid to men; and this too, when the work is as well done by women as by men." Women teachers, he said, received barely more than half what was paid to men. Furthermore, Gov. John M. Thayer in 1875 told the legislature that the 1869 statute which permitted the wife to acquire and hold real estate did not permit her to convey property without her husband's concurrence. Yet not until 1882 did the legislature enable a wife to convey her separate property without her husband's approval.

Meanwhile the women had abandoned attempts to organize with a view toward nominating members of their sex for public office after they found that they had no chance for election except to the position of county superintendent of schools. Only two women ran for the territorial legislature in 20 years, one received 8 votes, the other 5, when at least 500 votes were needed for election. Three women were nominated for the State constitutional convention in 1889, but they were not elected.

Thus, while Wyoming men gave women the right to vote and hold office in 1869, they did not make the women equal partners in political and economic affairs. Hubert Howe Bancroft's agents, who visited the Territory in 1885 to collect material for a history of Wyoming, interviewed 84 leading male citizens, but they did not interview any women. Most of the women, to be sure, did not complain about their subordinate position—apparently they did not want it any other way—and they were no more willing to vote for women candidates for public office than were the men.

Satisfied with the experiment so far, the all-male convention in 1889, with only token opposition, included woman suffrage in the State constitution, and thus made Wyoming in 1890 the first State to have "equality." National leaders of the suffrage movement were so thrilled that they included in the call to their 1891 convention the joyful tribute, "Wyoming, all hail; the first true republic the world has ever seen."

Subsequently other States followed suit, one after another. Colorado soon elected women to its legislature, something Wyoming did not do until 1910. For a long time Wyoming would not elect women to any offices except those of county or State superintendent of schools. Not until 1950, long after many other States had adopted it, was woman jury service reinstated in Wyoming. The women may have been partly at fault for this delay, since they had made little effort to obtain participation on juries. During World War I, when the prohibition drive was making slow headway in Wyoming—slowest in the Rocky Mountain region—eastern drys asked what good woman suffrage had achieved in the State.

Then, in 1924, the State once again advanced a claim to distinction in the women's rights movement by electing a woman Governor. The Democratic Governor, William B. Ross, who had been elected in 1922 to a 4-year term, died just 1 month and 2 days before the general election of November 4, 1924, necessitating the election of someone to fill out the last 2 years of his term. Special party conventions met in Cheyenne on October 14. The Republicans nominated Eugene J. Sullivan, a Casper attorney who had been mayor of Basin and speaker of the house of representatives. The Democrats nominated the deceased Governor's widow, Mrs. Nellie Tayloe Ross, who had not been active in politics. She had taught kindergarten briefly before her marriage in 1902, but since that time had been satisfied to remain a housewife, busy bringing up two sons.

Sullivan campaigned vigorously for 3 weeks, while Mrs. Ross announced: "I shall not make a campaign. My candidacy is in the hands of my friends. I shall not leave the house." A few small newspaper advertisements quoted her as saying that she would be "governed by the underlying principles by which he and I, side by side, have sought to conduct our lives during our 22 years together." Mrs. Ross defeated Sullivan by more than 8,000 votes, polling more votes than Francis E. Warren, who won his seventh term in the U.S. Senate. The Cheyenne Tribune-Leader correctly appraised the situation: "Chivalry and sympathy were the factors of chief consideration. * * *"

[13] "Annals of Wyoming," vol. 10, No. 3 (July 1938), 127.

[14] Curley visited Wyoming Aug. 15–Oct. 30, 1874. The comment quoted here is taken from p. 74 of a booklet preserved in the Huntington Library: "The Territory of Wyoming, Its History, Soil, Climate, Resources, Etc.," published by authority of the Board of Immigration, Laramie City, December 1874, in the appendix of which are reprinted Curley's London Field articles.

Although she was elected on the same day as Mrs. Miriam A. "Ma" Ferguson was elected Governor of Texas, Mrs. Ross was acclaimed first woman Governor because she assumed office 20 days before Mrs. Ferguson. Partly because of this priority, Mrs. Ross received much favorable publicity outside the State during the next 2 years.

Mrs. Ross, like her huband, had to deal with a legislature that was predominantly Republican (16 to 11 in the senate, 45 to 17 in the house), and also like her husband she was the only Democrat among the five State elective officials. Predictably she did not dominate the many State boards on which she sat with the four Republicans, and predictably too, she did not control the Republican legislature.

In her brief opening message to the legislature, Mrs. Ross dealt only with the subjects that she considered to be of "greatest immediate importance." She explained at the outset that she had been aided in preparing her message by extensive notes assembled by her husband for the message that he had planned to deliver. She reported proudly that during her husband's administration the valuation of railroads for tax purposes had been increased by $11 million and that total State taxes had been reduced. She urged the legislature to continue shifting the tax burden from small property holders to large ones. Recalling a coal-mine disaster at Kemmerer in which 100 persons had died on August 14, 1923, she asked for improved safety regulations. She called for increased State investment in farm loans to aid depressed agriculture. She repeated her husband's complaint that Wyoming had not kept pace with progressive States in restricting the working day for women, and she recommended ratification of the child labor amendment which had been submitted to the States by the U.S. Congress.

Republican drys who thought their own candidate too wet had helped elect Mrs. Ross' husband in 1922. Appropriately Mrs. Ross announced that she stood "unequivocally for * * * thorough enforcement," and she proposed the enactment of a statute that would make it as great a crime to buy liquor as to sell it. Contemplating the awesome fact that 35 banks, almost one-third of the total number of banks in the State, had failed in the past year, Mrs. Ross asked for a "sound banking law" and "some form of a guaranty provision."

The legislature adopted new coal-mine safety regulations, adopted a new banking code, and enlarged the farm loan fund, but such actions were coincidental rather than indicative of Republican willingness to follow Democratic leadership. It also adopted a child labor law barring employment of children under 16 in hazardous occupations—a law which stood virtually unchanged until 1963. Otherwise the legislation enacted by the 1925 legislature showed little similarity to the Governor's message.

Although she was elected "on trust," as she herself once put it, Mrs. Ross proved to be a good Governor who gave the State a respectable, dignified, and economical administration. Intelligent, tactful, and gracious, she soon became a competent administrator and an effective public speaker. Appropriately, in 1926 her party nominated her for a 4-year term, while the Republicans advanced Frank C. Emerson, State engineer, whose ouster both Mrs. Ross and her husband had tried to accomplish, but without success.

Considerations of sympathy, charity, and chivalry were no longer important by 1926. Moreover, many Republican women who had crossed party lines to vote for a woman in 1924 voted for Emerson in 1926. The venerable champion of woman suffrage, Mrs. Theresa A. Jenkins, who had delivered an oration at the statehood celebration in 1890, asked in an open letter during the 1926 campaign: "What has Mrs. Ross done to particularly deserve the votes of women? Has she ever, since coming to Wyoming taken any interest in woman's suffrage?" A prominent Casper Republican, Mrs. H. C. Chappell, declared in a public address: "I am not against a woman for Governor, but I am against a woman who is not fitted for the office and who was elected through appeals and prejudices that have no place in politics. * * *" Mrs. Ross' critics charged that she had not given other women a chance to demonstrate their capacity for public office, that she had appointed 174 men and only 5 women, and that she had not named any women to offices formerly held by men.

Republicans alleged that Mrs. Ross was merely a figurehead and that four men were really running her administration: Cheyenne Lawyer Joseph C. O'Mahoney, State Examiner Byron S. Huie, Attorney General David J. Howell, and Interstate Streams Commissioner S. G. Hopkins.[15]

Frank Emerson was presented as a businessman and engineer who would bring development to the State. A typical advertisement asserted: "Wyoming has retrogressed while neighboring States progressed. What's wrong with Wyoming? Wyoming needs leadership. Frank Emerson can meet its need."

Democratic advertisements defended the Governor with statement that she had reduced the expenses of State government in all departments, had equalized the tax burden by increasing the share paid by corporations, and had upheld the State's water rights.

Among that year's Democratic candidates, Mrs. Ross easily ran the best race, but she lost by 1,365 votes. She lost not because she was a woman, but because she was a Democrat in a Republican State and because she could not avoid being blamed for the State's economic aches and pains. She never again sought public office in Wyoming. Her work for the Democratic National Committee subsequently brought her appointment as Director of the U.S. Mint; she served in this capacity for 20 years, 1933 to 1953. Still vivacious and charming, living in retirement in Washington, D.C., she exclaimed in 1964 with obvious sincerity: "I am very grateful for all that the wonderful people of Wyoming have done for me."

What is the status of women in Wyoming, "The Equality State," in 1965? The percentage of employed women is low because of the industrial pattern—the leading industries, oil and other mineral production, and agriculture and livestock, offer few opportunities for women. Perhaps this should leave more women available for election to public office, but if so they have not been utilized very often. There are only 3 women among the 61 members of the lower house of the State legislature and only one woman in the State senate. Mrs. Edness Kimball Wilkins, ranking member of the majority Democratic Party in the house in 1965, was passed over for the speakership. After remarking that she was accustomed to stepping aside for the men, she conceded that Cheyenne Lawyer Walter B. Phelan, who was elected speaker, was a better parliamentarian and a more aggressive party leader. Reminiscent of much that was said in the 1870's, a Republican woman declared that it would have been good free advertising had the position been given to a woman.

No woman in the State has ever won her party's nomination for a place in the United States Congress, and no woman has ever been elected or appointed district judge or Supreme Court Justice. Among the five elected State officials in 1965 two are women: Mrs. Minnie A. Mitchell, auditor, and Mrs. Thyra Thomson, secretary of state. It is not intended as a reflection on their abilities to point out, however, that each was elected soon after her husband died in high elective public office.

It seems fair to conclude that while Wyoming is properly proud of its enlightened actions in 1869 and 1889, the voters, both men and women, have never construed equality to mean favoritism for women. The traditional view that a woman's place is in the home still prevails in Wyoming politics, whether the woman is single or married, and whether or not she has young children. And so the search for talented public servants tends to be confined to only one-half of the population.

[15] In an interview in her home in Washington, D.C., in December 1964, Mrs. Ross told the author that she had relied mainly on advice from O'Mahoney and Howell.

ANNIVERSARY OF THE INDEPENDENCE OF LIBERIA

Mr. PELL. Mr. President, we are constantly reminded of the many problems of the developing nations of the world. We are told of the seemingly insoluble problems of illiteracy, poverty, disease, and neglect. Further, we are told that the free enterprise system is unable to meet these problems. Pressures are strong to look for seemingly easy and, sometimes, even socialistic answers.

But today I would like to speak of a people who are attempting to prove that our beliefs in the free enterprise system are universally applicable. A people who have established the first democracy in Africa; a people who founded a republic and fought for 100 years against constant encroachments before it became accepted on that continent. A people who, while others turned to violent revolution, sought peaceful cooperation as their best avenue for change. I am speaking of Liberia, whose anniversary of independence was commemorated on July 26. And, when we honor Liberia we also honor its President, William V. S. Tubman, who has guided his country since 1944. I must also mention President Tubman's able representative here in Washington, Ambassador S. Edward Peal.

Liberia was first settled in 1822 by freed American slaves acting under a charter granted them by the U.S. Congress. President Monroe lent encouragement to the project and Monrovia, the capital, was named after him. In 1847, the Free and Independent Republic of Liberia was founded, then the only independent Negro republic in Africa. Its constitution, drawn up by Professor Greenleaf, of Harvard, was modeled after our own. Liberia's first hundred years have been called its century of survival due to the attempts by neighboring powers to encroach upon its sovereignty.

The Republic of Liberia is to be commended for both its economic progress and its human development. In 1962, faced with serious financial difficulties caused by rapid economic growth, the Liberians showed themselves willing and able to adopt a stringent austerity program. Under the guidance of the International Monetary Fund, the debt repayment schedule was stretched out. But Liberia's long-run prospects are

favorable, as the Government's open-door investment policy continues to attract large amounts of private capital.

But more important for the future even than economic progress, is the human development, which the Liberian Government has given top priority. The U.S. aid program is fully supporting the Government's efforts to create the educational, training, and health facilities that are being required. The Peace Corps program places heavy emphasis on teaching. And, additional support is provided by American business, missionary, and educational organizations.

And so today, our sincerest congratulations go to Liberia, the oldest Republic in Africa, our long-time friend and ally, and to its people and its President, William Tubman.

R. H. SHACKFORD ON COMMUNIST CHINA

Mr. CHURCH. Mr. President, R. H. Shackford, of the Scripps-Howard newspapers, has written skillfully on foreign policy for many years. Recently, Mr. Shackford has been performing a valuable service for the American reading public by devoting a part of his time to an analysis of the foreign policy of Communist China. It is absolutely necessary that we try to accurately assess Red China's intentions. Mr. Shackford's stories are especially important, therefore, in helping to fill the information gap existing about Communist China in this country.

Earlier this year, Mr. Shackford made an extensive trip to Asia to assess the effect of Red China's foreign policy. In an excellent series of articles entitled "Around Red China's Rim," Mr. Shackford summarized his findings.

I ask unanimous consent to have the first of these articles, captioned "Part I: Neighbors Look at Wave of the Future," printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Indianapolis Times, May 3, 1965]

AROUND RED CHINA'S RIM—PART I: NEIGHBORS LOOK AT WAVE OF THE FUTURE

(EDITOR'S NOTE.—R. H. Shackford, whose specialized reports on Red China have long been published in the Scripps-Howard newspapers, has visited 12 countries around the rim of Red China in the past 4 months. Following is the first of three articles on his overall impressions of these Asian lands, particularly as to the long-range outlook. On concluding this particular series, his regular feature, "Report on Red China" will be resumed, taking in, with more detail, the attitudes and opinions about Red China, as found among her neighbors.)

(By R. H. Shackford)

Most Asians who think about the future assume that in the long run—10 or 25 years from now—Communist China, not the United States, will be the dominant power and influence in Asia.

They accept as inevitable, almost fatalistically, that at some vague time within the next generation it will be the 750 million Chinese on the scene in Asia, rather than some 200 million Americans, 10,000 miles away, with whom they will have to reckon and make their peace.

This is my one outstanding impression left from 4 months' traveling "around the rim" of China.

Communist China already dominates the thoughts of Asians—not only those who are actively anti- or pro-Peiping, but also those whose positions are in between. Chiang Kai-shek's Nationalist China is rarely mentioned—never in the context of any important role for the future.

But Asian acceptance of Peiping's ultimate influence does not mean all Asians are anti-American or want the United States to go home. Nor are they prepared to throw in the sponge today as Cambodia's Prince Sihanouk and Indonesia's President Sukarno appear to have done.

However certain they may be that Communist China represents the "wave of the future," they want that wave held back as long as possible. They want the United States to continue a holding operation, not only in Vietnam but elsewhere. They hope that the longer the day of Chinese dominance is put off the better the chances are of China's moderation.

A popular thesis is that after the Mao Tse-tung era—if not immediately, then ultimately—a less militant China will emerge, just as the post-Stalin era made Russia easier to live with.

In short, Asians appear converted to the theses that America can, should, and, they hope, will delay and temper China's upward swing. But they are equally convinced that in the long run America cannot prevent it.

A word of caution: Any generalization such as this about Asia, with its vastness, rivalries, feuds, ambitions, divisions, and complexities, is dangerous and subject to violent and rapid change.

There are few common bonds among China's Asiatic neighbors, except that they and the Chinese are all Asians. Within almost every country there are dozens of divisive forces at work. Nationalism of many varieties and extremes is rampant. Memories of the white man's colonial role fade slowly. Communists play on these cleverly with the result that communism is not always considered the ultimate in evil as it frequently is in the United States.

The day of enlisting Asians in a militant anti-Communist crusade is gone, if it ever existed. Revolutionary nationalism, even when fomented by Communists, has the great appeal. More than negative concepts of anticommunism are needed if the nationalist fervor is to be useful. The status quo (even when good in our eyes) is not a good-enough alternative to the changes promised by Peiping even though the sophisticated realize the promises are only that.

Volumes could be written to explain why Asians feel that China's role as "big brother" is inevitable.

With our present efforts in Vietnam, this mood may seem ridiculous to Americans. But it is such a vitally important element of the future that it would be folly to ignore it.

It would be disastrous for the United States to throw in the sponge now and give up the long, difficult task of trying to hold the line.

It would be even more disastrous not to recognize what the Asians themselves think the outcome will be.

One of the most important reasons behind Asians' belief that Red China will dominate the continent in the distant future is the theory strongly held by even our best Asian friends that the day of the white man's influence there is near an end. Thus, the appeal of Peiping's propaganda slogan, "Asia for Asians."

The American stand in Vietnam and the British stand in Malaysia are—barring a major world war—probably the last of these kinds of operations by the West in Asia. Most countries worry about events which would precipitate "a Vietnam" with white soldiers in their own country.

A veteran diplomat in Pakistan, for example, is convinced that if the Pakistanis were faced today with a choice between taking their chances with Communist China or facing American intervention as in Vietnam, they would prefer to take their chances with the Chinese.

Vast changes in Asian thinking are taking place. Compared with 10 years ago, the vast crescent of land that encircles half of the perimeter of the Chinese mainland is a different world—physically and in thought. The 20th century is creeping even into the middle ages of Nepal.

Forces, for both good and evil, are at work which the Asians themselves, as well as the white man, find difficult to understand. When these are superimposed on ancient enmities and fears, the future at best can be seen but dimly.

BIG BROTHER—ORGANIZED CRIMINALS

Mr. LONG of Missouri. Mr. President, it is a constant cry that Internal Revenue Service's harassment tactics are used only against organized criminals and that plain taxpayers, especially small taxpayers, have nothing to worry about.

As a result of the recent hearings on IRS tactics, I have received much mail from small taxpayers outlining the harassing tactics of IRS agents. Recently, I received one which seemed particularly illustrative.

I ask unanimous consent to have printed at this point in the RECORD a letter from Mr. and Mrs. Robert Hunter of Las Animas, Colo., and an editorial of March 4, 1965, from the Bent County Democrat, Colorado.

There being no objection, the letter and editorial were ordered to be printed in the RECORD, as follows:

LAS ANIMAS, COLO.,
July 26, 1965.

Senator EDWARD V. LONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: We are two taxpayers who have been "dealt with" by the Internal Revenue Service since September 1963 here in Colorado over an irrigation water assessment. We have read with great interest of your investigations of the Internal Revenue Service agents in the East, as described in the attached newspaper clipping from the Pueblo Chieftain, Pueblo, Colo.

Our Colorado Congressmen, Senator GORDON ALLOTT of Lamar, Colo., and Representative FRANK EVANS of Pueblo, Colo., are familiar with our case. If you wish to verify our statements, you could talk to them.

We are also enclosing an editorial from our local newspaper which explains our situation—we have been afraid to send this article to anyone before, for fear of what the Internal Revenue Service would do to this man. As far as we know, all the farmers in the arid West have been deducting their entire water assessment as a business expense and this procedure was never questioned.

In our case the Internal Revenue agent had audited other returns on our own ditch and on similar ditches and allowed these people to deduct their full water assessment, but when he came to ours, he disallowed the water assessment as expense. When asked why, we were told "he just smartened up when he came to ours." After we refused to pay, this man began telephoning us long

distance from his office at Lamar at various intervals and advised us that we should pay the amount owed, that it was small, only $135; and several times he stated that we as taxpayers had no rights. Our statement of this man's calls could be verified by the records of the telephone company. We failed to see why all these telephone calls were necessary. He would let enough time lapse between calls until we would more or less put the matter out of our minds and then would call again and repeat his warning about our paying. We had paid the other part of the taxes we owed but refused to pay the part concerning the water assessment.

It is our opinion that these calls only served to remind us how unfair we think our treatment by the Internal Revenue Service appears to be. We are small farmers, whose income is not large and during the years for which our returns were audited (1960, 1961, and 1962), we prepared our own income tax returns. Our ditch, the Highland Irrigation Co., is a very small ditch.

The latest development in our case is a request from the Internal Revenue Service that we make a 400-mile roundtrip to Denver for another conference with them, although the trial date for our case is set up in Tax Court for about November 15. It is very inconvenient for a farmer to make a trip during the busy summer season, what with irrigating, haying, and other farmwork, for a conference at which no pretrial settlement would ever be reached. Yet this is what Internal Revenue Service requests of a taxpayer.

It is also particularly galling to know that only ourselves and one other farmer around here are the only people to whom the Internal Revenue Service has disallowed the water assessment as expense, contrary to its allegations otherwise. This fact, along with the agent's treatment of us, makes us hope and pray that your investigating committee can bring to light the treatment that Internal Revenue Service seemingly gives to small people.

Should you be interested in any other facts on this case, we would be more than glad to send them to you and sincerely hope that your committee can aid in improving Internal Revenue Service policies.

Very truly yours,

ROBERT L. and MAE V. HUNTER.

[From the Pueblo (Colo.) Chieftain, July 22, 1965]

U.S. TAX AGENTS DENY INTIMIDATION CHARGES

WASHINGTON.—Internal Revenue Service officials from Boston denied at a Senate hearing Wednesday that they intimidate or harass individuals. "Such charges," they said, "are by people who are overemotional or trying to kill a case."

The officials testified before a judiciary subcommittee which has heard that IRS agents used electronic eavesdropping devices and questionable investigative methods. There was testimony, too, about a Treasury Department "snooper school."

COMPLETES 3-DAY INQUIRY

The subcommittee completed a 3-day inquiry into the Boston Internal Revenue Service office, after one involving Pittsburgh, Pa., and Chairman EDWARD V. LONG, Democrat, of Missouri, said "any wiretapping or other use of listening devices was the fault of the Washington Internal Revenue Service headquarters and not the agents."

The "snooper school" and the furnishing of devices gave implied consent for their use," LONG said, adding "he expects IRS headquarters to take note of this."

Alvin M. Kelley, IRS director in Boston, said he could understand why some witnesses told the subcommittee they were harassed or intimidated. "But by and large," he said, "taxpayers cooperate with us and we with them."

HARASSMENT NOT TOLERATED

"I can understand, of course," he said, "why individuals who have been subjected to fraud investigations should subjectively feel that they have been harassed—but I assure you that our policy and general practice does not tolerate harassment."

Kelley and George L. Wilson, group supervisor of IRS intelligence in Boston, said wiretaps are used only in isolated cases in cooperation with other Federal agencies, and principally in security cases.

[From the Bent County (Colo.) Democrat, Mar. 4, 1965]

ROBERT HUNTER HAS BEEN VICTIM OF HARASSMENT BY INTERNAL REVENUE

(By Earl E. Asbury)

The Internal Revenue Service's case against Robert Hunter has dragged on for over a year and it is our opinion Mr. Hunter has been the victim of persecution, harassment, and injustice.

This is all the more unusual because we are used to seeing IRS operate in a coldly businesslike way, making its moves with sureness, accuracy, and justice.

The Hunter case started over a year ago when IRS Agent Virgil Richmond, in checking over Mr. Hunter's tax returns for the 3 previous years, disallowed the expense deduction Mr. Hunter had taken for that part of his Highland Ditch assessment that went toward paying for the Highland Dam that was installed after the old one washed out in the flood of 1955 on the Picketwire River 12 miles south of Las Animas.

We do not particularly criticize Mr. Richmond for questioning the expense initially. We do criticize IRS for not clearing up the issue cleanly and logically after it came up, and applying the same decision to all.

As it is, Mr. Hunter has been assessed $130 in back taxes (which he still refuses to pay). He has had a conference with the chief of the Denver IRS office in La Junta, another conference with the IRS appellate division in Denver, and now has a hearing scheduled for this fall before a tax judge in Denver.

Most people like to stay as far away from the income tax agents as they do from their undertaker. To have to spend some 2 years in the shadow of IRS as Mr. Hunter has had to do is unnecessary harassment. Especially since he took the same kind of expense deduction on his income tax form that other irrigation farmers in Bent County have taken since the beginning of time, and are still taking.

In brief, Mr. Hunter considered his whole irrigation assessment as a farming expense.

But IRS contends the Highland Dam which was built 9 years ago was a capital improvement, owned jointly by all the farmers who own shares in the Highland Canal Co.

Ordinarily, if you have a capital improvement, you can depreciate it. And if it is destroyed by accident or an act of nature, you can benefit on your income tax return by claiming a capital loss.

But IRS seems to feel the dam is so solid it isn't depreciating each year. And IRS points out the limit of years has passed so that farmers under the Highland Ditch can't go back now and claim a capital loss on the old dam when the flood washed it out.

(Most local farmers feel building the dam wasn't a capital improvement anyway, but was merely replacing the old dam as you would a roof on your barn.)

The issue has dragged on too long without being resolved. If Mr. Hunter's expense deduction is going to be allowed, IRS should allow it and get off his back. If not, every other farmer under an irrigation ditch in the west should get the same treatment as Mr. Hunter and should have the portion of his ditch assessment that goes toward payment of his irrigation dam be disallowed as an expense. Only one other farmer in Bent County besides Mr. Hunter reported a similar disallowment.

It looks to me as if IRS is just looking for trouble. Because it will end up with approximately the same amount of taxes either route it takes.

If paying for the dam can continue to be considered an expense, farmers can take the whole ditch assessment as an expense deduction as they have been doing.

If IRS insists on counting the dam as a capital improvement, farmers should be permitted to take deductions for depreciation and capital losses when the dams wash out, so that their tax will balance out about the same either way in the long run.

Senator GORDON ALLOTT has introduced a bill in Congress to permit farmers to count the payments toward the dams as expenses if they choose to. It would probably help break the impasse if this bill would be approved.

THE REBEKAH HARKNESS FOUNDATION AND ITS CONTRIBUTION TO THE DANCE

Mr. McGEE. Mr. President, a society cannot ignore the arts, nor its artists. One that does is inevitably poorer and in danger of losing much more, indeed. Hence it is, Mr. President, that we should give honor to those who enrich our art forms. It is with this in mind that I refer to an article from the July 28 issue of the New York Herald Tribune regarding Mrs. Rebekah Harkness' contributions in time and in money to the dance.

Mr. President, I ask unanimous consent that this report from the Herald Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HARKNESS CREDO: TALENT MUST BE SERVED

(By Walter Terry)

"The people who stay in the middle don't interest me," said Rebekah Harkness, composer, sculptor, and patroness of the arts. "It is the artist or the delinquent I care about—the point is to do something for the two extremes: on the one hand, to give the artist opportunities to release his talent; and, on the other hand, to help the delinquent find himself through the disciplines of art."

To this end, Mrs. Harkness, through her own Rebekah Harkness Foundation and the foundation established by her late husband, William Hale Harkness, has provided desperately needed funds (totaling millions of dollars) to the arts, and to dance in particular. Harkness sponsorship aided Jerome Robbins' Ballets U.S.A. in a European tour, promoted the Robert Joffrey Ballet from a small national company to one of international stature, and made possible free dance events, in collaboration with the New York Shakespeare Festival, in Central Park's Delacorte Theater.

A year ago, the Harkness dance enterprises embarked on new and expanded programs. The Harkness Ballet, which now numbers approximately 30 dancers, was founded with George Skibine and Donald Saddler as its artistic and assistant artistic director, respectively. The initial tour, which began in 1965, was booked in Europe and provided the new company with a sort of glorified New Haven in which to try out its new works and to discover its incipient strengths and passing weaknesses.

At the same time, Mrs. Harkness purchased the old Thomas Watson townhouse and launched the long and expensive process of

having it converted into the Harkness House for the Ballet Arts in New York City. When it opens in the fall, as the home of the Harkness Ballet and as a center for ballet seminars, workshops, lecture-demonstrations, art exhibits related to dance, its many studios will foster not only ballet but music, design, and literature as they relate to ballet.

"It has," says Mrs. Harkness of the new ballet house, "the airs and graces of a palazzo. Maybe I'll be criticized for its elegance but I do think that beautiful surroundings are important to the working artist. And I'm serious when I use the word 'working.' I mentioned earlier, didn't I, that I'm not concerned with those individuals who stay in the middle? Well, this means I'm interested in the worker-artist. For example, there is the professional—the real pro—who does a fine job on the equivalent of the good old 9 to 5 basis. I care about the one that works to 5:45, that works extra. The former is a 90 percenter. He rarely does anything memorable. It's the extra 10 percent which counts. I guess it's the difference between the adequate and the inspirational.

"No, I'm not enough of a nut to believe that time heals all wounds nor that time creates talent. I'm not even certain just what makes for talent in the individual—chemical factors? inspiration? love?—but if talent is there, it needs time to grow. Nobody can put talent into another being. My job, and my privilege, is comparatively simple and that is to give release to talent that is already there. Maybe it's a minor talent—although we pray it is major—but it too deserves a chance. To put it bluntly, at our summer workshop at Watch Hill, R.I., and, later, at our headquarters in New York, the plan is to give choreographers, composers, and designers the time to work out their ideas and, if they have that mysterious thing, if they have something to say, this is the opportunity provided them in which to say it. It doesn't always work out. But it might. And the 'might' is worth all the expense and the effort."

This summer, at Mrs. Harkness' arts center in Rhode Island—a firehouse converted into two large studios, other studios in her own house, a complete inn for the many married couples in her troupe—the creative opportunities for a wide range of artists are being given the time and the release that Mrs. Harkness believes are the right of the potential holder of talent.

Donald McKayle (represented choreographically on Broadway in "Golden Boy,") is working on a new ballet with an Israeli theme; Sophie Maslow is restaging her successful "The Dybbuk"; Alvin Ailey, who has already created two successful works for the Harkness Ballet, is at work on "Macumba," with a score by Mrs. Harkness herself; and the Henry Street Playhouse's Alwin Nikolais is moving out of his own distinguished home for a rare occasion to create a new work for the Harkness Ballet.

Other choreographic highlights of the summer workshop at Watch Hill include a new version, by John Butler, of Gian-Carlo Menotti's "Sebastian"; Mr. Saddler's new American Indian ballet, "Koshari," with a score by the Indian composer Louis Ballard; a piece by Mr. Skibine to a new score by Carlos Surinach; Stuart Hodes' "Free for All," to music of Paul Bowles, and other ballets by Mr. Saddler (an Alice in Wonderland "Through the Looking Glass" piece), William Dollar, Leon Fokine, Karoby Barta, Richard Wagner, and others.

The ambitious program—the workshop at Watch Hill, Harkness House in New York, a second Harkness Ballet tour of Europe in 1965–66, a Rebekah Harkness Foundation Dance Festival in Central Park this fall—are but a part—albeit major—of the Harkness plans. "I think it's important," says the slim, supple (she takes ballet class and yoga exercises daily), youthful mother of three grown children, "to help dancers develop secondary talents. Why should dancers have to fear that awful moment when the muscles just won't do the job any more? I'd like to see them ready with another skill—maybe design, perhaps music, teaching, therapy—which will extend their earning capacities for many years."

A long-range project has to do with men in the ballet. Mrs. Harkness recognizes the fact that dancing for men is subjected to the incontrovertibly erroneous notion that dance is a feminine art but, more important, that the all-American "pop" is worried that his son won't make a dependable living. For this outmoded attitude, Mrs. Harkness has a campaign in mind.

"My idea," says Mrs. Harkness, "is to send lecture-demonstration programs out to as many schools as possible. Whom do we want for male dancers in American ballet? We want the types you find in high school gymnasiums. We need to win them over at that vulnerable age—and their parents, too. For these boys from our gymnasiums, given the training, can do anything that the Bolshoi Ballet wonder kids can do.

"And, I guess, this brings us back to where we started: my function. I'm a composer and I work at it hard. I'm also a sculptor—I've got a figure, in the next room, with all its muscles lying about and I'd better get 'em into place—but my own foundation and Bill Harkness' foundation have set out to help ballet in America. Mistakes will be made, that is inescapable. But the artists of the ballet have, over the years, brought so much to us that I feel that my job is to bring to them—in time, in opportunity, in release, in encouragement, in financial help and stimulating surroundings—what I can."

A GI'S LAST LETTERS FROM VIETNAM

Mr. SIMPSON. Mr. President, in view of our reaffirmed commitments in Vietnam and in light of the great need for a national dedication to our cause on that battlefield, I ask that an article appearing in Family Week be inserted in the RECORD at this point. It is entitled "A GI's Last Letters From Vietnam," and it is composed of excerpts from the letters of Capt. James P. Spruill to his family. These were wonderful letters—letters expressing the very best of the American spirit—letters showing a deep sense of responsibility and a strong hope for our cause. Before being killed in Vietnam, Captain Spruill said:

Progress will not be dramatic. It will, in fact, be painfully slow. One of our biggest enemies will now be impatience and despair itself. * * * Talk instead of steadfastness, loyalty, and of victory—for we must and we can win.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A GI'S LAST LETTERS FROM VIETNAM

(NOTE.—On Memorial Day, a widow shares her pride in a husband who went to a war-torn land where his beliefs were put to the ultimate test—but never faltered.)

Mrs. Barbara Spruill, Suffern, N.Y.:

"On April 22, 1964, I was at my sister's house, when the telephone rang. I could hear her talking: 'Yes, she's here. * * * Read it to me. * * * Yes, I'll tell her.'

"She didn't have to tell me, though—I sensed that a telegram had been delivered to my home; a neighbor, guessing its contents, had phoned my sister.

"My husband, Capt. James P. Spruill, had been killed the previous day in Vietnam. I learned later that his jeep had struck a land mine.

"Our daughter, Elizabeth, 4, cried when I told her that daddy would not come home. But our son, Mark, 7, understood and was a great comfort to me.

"After the children were in bed, I took Jim's letters and sorted and typed them until the early-morning hours. I had a reason. Some of the people who sympathized with me felt that Jim had died without cause, that I had been widowed and my children left fatherless by a senseless death. We never believed this. Jim was a selfless man dedicated to a great responsibility—a responsibility to his country and to other people. He loved the Vietnamese and, as you shall see, never doubted that the good he could do outweighed the risks he faced.

"On this Memorial Day, I wish to share our pride in Jim's sacrifice with you. Here are excerpts from some of his letters."

It is a privilege to work with the Vietnamese (self-defense corps). Frustrating at times because he is backward, poorly trained, and—generally speaking—an amateur at almost everything he does. But in spite of his faults he is the most genuine and kind human I have met. Simple, humble, willing, and warm—they are wonderful people. If the press judges them harshly at times, it would be well to remember that they have had their independence only 9 years, and they never have had the opportunity to develop leadership, civic and otherwise.

It was brought to my attention last night that we were once inadequately equipped and poorly trained and that professional soldiers came from afar to aid the fledging American Army in its fight for freedom and internal order. Two of these "advisers" are well known—Von Steuben and Lafayette. It is heart-warming to think that we now continue the tradition of sacrifice fostered by those two men when they aided a nation in need.

* * * * * * *

The other day (during a hazardous field operation) when I thought I would drop, never to get up again, I said to myself: Barbara and the children are at the far-tree line. Without that thought I may not have made it. Later on in the day, I crossed a stream over my head. When you come to them, there is nothing to do but hold your breath and walk under (the water) and hope that you hold out until your head comes up again. And later on in the day, I fell into a spike trap. I was lucky because there were no spikes.

* * * * * * *

My rotation date back to the States is November 3, 1964. I am told that it could be as much as a month earlier but not to bank on that. In any event, Honey, the clock is running; I am where my destiny has led me, and I have no regrets except my painful absence from you, Billy Goat, and Punky Bear.

Well, little monkeys, by the time another letter gets to you, Christmas will be there. God alone knows how hard Daddy will reach out for you all in his heart during that time. In a way it will be a sad Christmas. But only in a selfish way. In a better, more meaningful, way, it will be one of our best Christmases, for our little family is giving of itself to the world. We are sacrificing, you and I, for the good of other people, and that is truly Christlike.

* * * * * * *

Last night, on Christmas Eve, I went down town to a Catholic service. There were children everywhere, and there was a Santa Claus, slant eyes and all. I saw a small child that reminded me of another child I know, and it was all I could do to keep smiling. But you know, the mother read

what was in my eyes and brought the child over to me. I picked it up, sat it in my lap and held it, and for a wonderfully warm moment East and West were one in heart.

It was a wonderful Christmas. I want you to understand that. Before I fell asleep, I had to cry a little. But even as I did so, I knew I did not cry out of sorrow or self-pity. I cried because my heart was so full of happiness and gratitude that it could not hold it all. I was sublimely happy because I have had the three of you.

* * * * * * *

However, my post is a bit quieter than others. Last night, for example, we showed a movie in the market and that helps keep things quiet because the local VC (Vietcong) like to see the movies, too. Strange thing to sit there in the night, a pistol in your hand, and laugh at animated cartoons with members of the VC.

* * * * * * *

At the moment, the war does not go well. You read enough about that. I feel that there is too much talk of despair. I warned you of that before I left. You may remember. Above all, this is a war of mind and spirit. And it is a war which can be won no matter what present circumstances are. For us to despair would be a great victory for the enemy. We must stand strong and unafraid and give heart to an embattled and confused people. This cannot be done if America loses heart.

At the moment, my heart is big enough to sustain those around me. Please don't let them, back where you are, sell me down the river with talk of despair and defeat. Talk instead of steadfastness, loyalty, and of victory—for we must and we can win.

* * * * *

I must admit that there are many moments of frustration in Vietnam. Ineptness, dishonesty, lack of spirit, confusion, and laziness—to name only a few. But that is exactly why we are here. It is exactly in places and in circumstances such as this that communism gains its foothold. Communism is the scavenger of the upheaval that comes with the modernization process and the age of rising expectations.

* * * * *

* * * Much sweat—and I am afraid much blood—remain to be shed. Progress will not be dramatic. It will be in fact be painfully slow. One of our biggest enemies will now be impatience and despair itself * * *.

* * * * *

(His last letter, dated April 19, 1964) * * * Chin up. See you later * * *.

(EDITOR'S NOTE.—Mrs. Spruill has not let her husband's sense of responsibility die. By personally writing U.S. pharmaceutical firms, she arranged for free medical supplies to be sent to Cai Son, the village where Captain Spruill was last stationed.

Last month Mrs. Spruill was awarded the George Washington Honor Medal by the Freedoms Foundation "in recognition of her husband's supreme sacrifice in Vietnam and of his resolute and reverent support of the ideals of American patriotism as exemplified in his letters.")

"NEWSCASTER WITH THE FACTS" (JOSEPH McCAFFREY) URGES PASSAGE OF THE COLD WAR GI BILL

Mr. YARBOROUGH. Mr. President, Joseph McCaffery, a newscaster in the Washington area, has a reputation for being a "newscaster with the facts." He is one of the finest reporters of the news in television, and has acquired a large following among those who have become acquainted with his nightly telecasts.

On Friday, July 23, 1965, and Thursday, July 29, Mr. McCaffrey broadcast two fine editorials on the cold war GI bill over channel 7 in Washington. Although the GI bill has received editorial commentary from across the Nation, Mr. McCaffrey presents the need for this bill in a perspective which is seldom reported on in the area he covered, that of our national goals and military involvement.

To illustrate the excellence of Mr. McCaffrey's commentaries and to emphasize the need for the cold war GI bill, I ask unanimous consent that the texts of these two telecasts be printed at this point in the RECORD.

There being no objection, the text of the telecasts were ordered to be printed in the RECORD, as follows:

(By Joseph McCaffrey, July 23, 1965)

One of the strangest things in Washington has been the news blackout on the cold war GI bill.

Little or nothing had been written about this bill before the Senate on Monday, finally approved the bill which Texas Senator RALPH YARBOROUGH has been pushing for so long. Since Senate passage not much more has been written about it. Actually, there is no conspiracy to put the blanket over the cold war GI bill. The thunder of silence that greets it is probably in keeping with the general neglect of the peacetime draftee, yet he goes into the shooting war in Vietnam, or may be shot at in the Dominican Republic or, perhaps, be shot at in some part of the world where at this very moment there is no shooting, but soon may be. The Yarborough bill, passed on Monday, would fill the gap left by the expiration of the Korean war GI bill. The next step is up to the House of Representatives. Although there is no inclination on the part of editors and commentators to push the cold war GI bill, there is a huge lobby forming to support it: The thousands and thousands of veterans who would benefit from it, but most important it has something else behind it: public conscience, which recognizes that we must provide for the men who are now being sent into combat.

It is this, in the end which will force action on the Yarborough bill in the House of Representatives.

(By Joseph McCaffrey, July 29, 1965)

Now that we frankly talk of the situation in Vietnam as a war, and we double the draft quotas, with the possibility that it may be tripled within a short time, it is time to get a small beam of light focused on Senator RALPH YARBOROUGH'S cold war GI bill. The Senate has already approved this bill, the House has given no indication that it is interested. Yet we are moving to a wartime footing.

We are stepping up the draft calls, as we did when we started the long haul in Korea, but the men who went into Korea knew that if they could come out alive, they would have the same GI bill benefits which veterans of World War II received.

The draftee going into the war in Vietnam doesn't have this going for him, nor will he be able to carry over into civilian life a GI insurance program, because there is no longer any GI insurance.

The draft has been called, by those who have studied it, basically unfair. There have been, and there probably will continue to be some loopholes through which thousands will escape.

But what about those who are caught up in the draft?

What does the House of Representatives intend to do about them?

What action does the House and its Veterans' Committee intend to take on the Yarborough GI bill?

It can no longer be called a cold war GI bill because the draftees going into Vietnam are taking part in a hot war.

If we are such a prosperous, fat, happy Nation with, as the President bragged yesterday, an unequaled 52 months of prosperity, we should be able to afford to treat our servicemen fairly and decently.

Whether we do or not, depends on what the House does about the Yarborough GI bill.

QUIET VICTORIES ON THE FARM FRONT

Mr. LONG of Missouri. Mr. President, in the midst of great national and international crises, our country has experienced a series of quiet victories on the farm front. This was made very clear when the Honorable Orville L. Freeman, Secretary of Agriculture, spoke earlier this week to the annual meeting of the Missouri Farmers Association in Columbia, Mo.

I am bringing to the attention of the Senate this fine speech for it tells so well the great success story of American agriculture in the 1960's. As Secretary Freeman points out, the Missouri Farmers Association operates "from the premise that what is good for the farm families of Missouri and the Nation is good for the Missouri Farmers Association." Certainly, MFA deserves our high praise for benefiting both the farmer and the consumer alike.

Mr. President, I ask unanimous consent that this speech be printed in full at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SECRETARY OF AGRICULTURE ORVILLE L. FREEMAN BEFORE THE ANNUAL CONVENTION OF THE MISSOURI FARMERS ASSOCIATION, STEPHENS COLLEGE AUDITORIUM, COLUMBIA, MO., AUGUST 2, 1965

There are some experiences which—no matter how often repeated—are ever new, and revive a man's zest for life and his joy in it:

Like feeling the trusting touch of the hand of a little child;

Recognizing the voice of an old friend by the warmth of it;

Seeing the haze of loveliness that wraps itself around a mother, a wife, a daughter; and,

Seeking to match the intense concentration of an inquisitive boy.

Another of these always refreshing experiences is looking out over the versatile and vibrant farmlands of the Midwest in the midst of a growing season. There is always inspiration, accompanied by a deep sense of gratitude, in seeing firsthand the combination of farmer skills with nature's gifts that results in the miracle we know as food abundance.

So I find it good—good indeed—to be with you in this place, at this time. Thank you for inviting me.

Four years have gone by since we were last together at an annual meeting of the Missouri Farmers Association. Since 1961 I have come to know the membership of this organization better than I did then—many of the more than 150,000 of you personally—all of you through the quality of your organization and the character of the leadership you chose for it.

These associations and observations have led me to two conclusions about the Missouri Farmers Association.

One is that you do not accept progress as inevitable. You look upon progress as a process demanding imagination and creativity * * * sensitivity and sensibility * * * anticipation and dedication * * * and plain hard work.

The other is that you consistently operate from the premise that what's good for the farm families of Missouri and the Nation is good for the Missouri Farmers Association. I've seen you apply this principle internally, as you weighed possible immediate advantages for your cooperative enterprises against the potential for long-term gains and in the whole of agriculture; and I've seen you apply it in helping create and implement national farm and food policies and programs.

For establishing and following these commendable standards, you have my admiration and respect.

This organization's spirit and its concept of proper priority—as well as the personal philosophy and abilities you have recognized for a quarter of a century—have contributed to making your Fred Heinkel an internationally recognized agricultural leader.

Fred Heinkel holds the dual role of an architect, and a builder, in the food and agriculture policies and programs of the 1960's.

Few commodity programs, now or in the past, have records of performance and popularity equalling that of our present feed grains program. It was the first big step in bringing farm production policy into harmony with the era of abundance. The chairman of the advisory committee which played a major part in the creation of the feed grains program, and in perfecting it through the years since 1961, was Fred Heinkel.

Fred, I want MFA members to know that no one has done more for American agriculture through this period of almost 5 years than you. And if you will accept a personal tribute, I want to express my own high regard and warm affection.

Earlier I recalled it has been 4 years since I attended an annual MFA meeting. At that time we discussed what needed doing in the decade of the 1960's to correct inequities that were denying parity of income opportunity to our farm families and threatening the destruction of the free enterprise family farm system.

Since then, working together, we have corrected, and we have innovated.

We have broadened the avenues of economic, educational and social opportunity for the people of rural America—farm and nonfarm.

By combining the abilities, the knowledge, the resources and the purposes of people and government we have moved steadily upward on a number of fronts from the low levels of 1960.

As Al Smith once said: "Let's look at the record."

Farm earnings today are substantially better than they were. Realized net farm income in this year of 1965 is now expected to total $13.5 billion—the highest since 1953 and some $1.8 billion more than our farm families earned in 1960.

Today's income is better than that of 1960 because we've succeeded in moving to more equitable farm price levels. In the early summer of 1960 the average return to farmers from soybeans was $1.94 a bushel. This year it was $2.72—78 cents a bushel more.

Here are some other early summer of 1960 and 1965 comparisons:

Corn: $1.09 a bushel then, $1.30 now.

Hogs: $16.20 a hundredweight then, $22.70 now.

Cattle: $21.70 then, $23 a hundredweight now.

Lambs: $20.10 then, $25 a hundredweight now.

Wool: 45 cents a pound then, 49 cents a pound now.

All hay: $15.90 then, $20 a ton now.

Farm spending is better than it was. The income gains are reflected in improved rural town and city economies as sales of goods and services to farmers trend upward. Last year, when gross farm income was $4 billion over the total of 1960, farmers increased their expenditures for automobiles by over $600 million and boosted other expenditures for capital goods and machinery by another $400 million. Better living on the farm means better living in St. Louis, Kansas City, Detroit, and Rock Island.

Food is a better bargain than it was. For the millions of American consumers, food is the best buy they find in retail stores. This year, for the average family, food costs will take about 18.3 percent of income after taxes. In 1960, food required 20 percent—and the diet contained less beef. If the same percentage of income were being spent for food in 1965 as consumers were spending in 1960, they would have $7 billion less to spend on other things.

Food distribution is better than it was. We're doing a much-improved job of making our food abundance cover the whole of our society—our families requiring public assistance, and our school children. The USDA's food programs are now reaching over 40 million American adults and youngsters each year. The volume of food distributed through these domestic programs has increased from 900 million pounds in 1959–60 to 2.1 billion pounds in 1964–65. In addition, a growing volume of food is moving into the homes of low-income families through commercial channels under the food stamp program.

Farm exports are better than they were. Sales of agricultural commodities overseas are expected to reach a new record of $6.1 billion in the current fiscal year. It will be the second year in a row with farm exports in excess of $6 billion, as compared with $4.5 billion in fiscal 1960. This means more than better markets, better incomes, for farm families—it means expanded job and income opportunities in the areas of processing and shipping—and it makes a substantial contribution to a favorable balance of payments. From a humanitarian standpoint and from a commercial standpoint the expanded utilization of American food and fiber abroad contains the greatest opportunity for maximum use of our great food production plant. In this effort there is need for the facilities and the skills of our cooperatives, and the interest demonstrated by MFA is most welcome.

The supply-demand relationship is better than it was. Surpluses are down. Carryover stocks of grain by the end of the year will be at the lowest level since the mid-1950's, which means greater farm price stability and a cut in storage and handling costs for taxpayers.

We can take pride and satisfaction in these achievements.

What we've done in the past 4 years is proof it is possible to base a reasonable, progressive, serviceable food and agricultural policy on a concept of abundance rather than scarcity, benefiting producers and consumer alike.

That doesn't mean we have achieved full parity in income opportunity for our adequate, commercial family farms or that rural America as a whole is moving ahead in job and other opportunities as rapidly as it must to reach our goal of parity of opportunity.

But we're on the right track.

Whether we stay on it depends upon the decisions the Congress makes this month on legislation that will make it possible to continue—with a variety of improvements—the policies that have provided fuel for the steady progress made since 1960.

Let me emphasize that these legislative proposals are not designed to maintain the status quo. While incorporating the dynamic parts of our past experience, the omnibus farm bill is designed to encourage development of an agricultural plant and a family farm economy that will respond to the potentials of the future.

The same mechanisms that made things better than they were are not necessarily sufficient to make them better than they are.

Enactment of forward-looking legislation is mandatory to a forward-moving rural economy, a forward-moving national economy.

Failure to act will be catastrophic to both.

Studies made by the Congress, by university economists, and others agree that if we fail to extend our farm commodity programs we will quickly experience a decline of as much as 50 percent from the current, still inadequate net farm income level.

Anyone can understand a 50-percent pay cut, and its impact upon the individual family directly affected. But let me turn your attention, and the attention of the entire Nation, to what such a blow to the farm economy would mean to the whole of the country's economic well-being.

A quick look at the farm credit situation is most revealing:

On January 1, 1965, the total farm debt amounted to $36 billion. That's 45 percent more than it was just 5 years ago. It is nearly 200 percent over the farm debt total of 1950.

It is a matter of deep, personal concern to the farm families who owe it. It should also be a matter of both humanitarian and economic concern to nonfarmers, because if farm families cannot pay it, city families are going to be in trouble, too.

The debt situation in agriculture is neither better, nor worse, than in other sectors of the economy. Farm debt has increased at about the same rate as the debt of corporations, and at a somewhat slower rate than consumer debt and private noncorporate debt.

Indications are that the sharp rise in farm debt is not due to the use of credit as a substitute for income.

Rather, the increase has resulted largely from borrowing by farmers to increase the efficiency of their operations, and borrowing by young farmers becoming established on adequate family farms. And comparatively few of them are having debt difficulties so far—this fact is made clear by the excellent record made by farm lending institutions in collections from 1961 through 1964, and the near-record low levels of delinquencies and foreclosures.

If we succeed in maintaining the farm income gains of the past 4 years; if we continue our already significant progress toward full parity of income opportunity for the operators of the growing numbers of adequate family farms, the farm debt situation is not likely to cause serious difficulties for most farmers, for the communities which provide them with goods and services, or for the urban factory workers dependent upon rural markets for a substantial share of their employment.

However, a sharp decline in farm income resulting from failure to continue constructive farm and food policies and programs would, on the other hand, quickly upset the entire rural credit structure. It would deprive farmers of the ability to borrow or to repay the massive debt load they carry today. It would mean wholesale foreclosure and liquidation. It would mean rural chaos that would quickly infect the entire economy. Once again newspapers would repeat, in headlines, the old adage that depressions are farm led and farm fed.

The times of truly great tragedy in rural America have been the times of mass foreclosures. In this community and in others across the land, scars still remain as a reminder of the last time an accelerated downgrading of the value of a man, his family, and his farm made it impossible for the family farmer to make the payments on his mortgage.

The stakes are big this month as the Congress prepares to act on the Great Society farm program. If it is enacted into law, we can look forward to steady progress, and it wouldn't be unreasonable at all to anticipate in the next 4 years a repeat of the thousand-dollar gain in realized net income per farm of the last 4 years.

But—if we fail to build upon the experience and the programs and the progress of the 1961–65 period, the outlook will be grim indeed. If failure to adopt reasonable, purposeful legislation brings a drop in net farm income from the current level down to just $6 billion a year, every American will suffer. In that event the efficient family farm structure that now ranks among the wonders of the modern world would be wiped out. No one can predict what might replace it, but the food abundance and fair prices consumers now accept as casually as the air they breathe would be gravely threatened.

If we fail to respond to both the responsibility and the opportunity contained in the food and agriculture bill now before our Congress, we'll appear in the coloring book of history painted thoughtless and indifferent—perhaps even ruthless.

I believe in the positive approach—and so do you, or you couldn't face up to the year-after-year, season-after-season hazards of farming.

I can sense a growing realization among all the people of our country that they have a good thing going for them in the policies and programs that give rural America stability and sound growth prospects; give urban America an abundance of good food at fair prices; and, give the hungry of the world not only a source of food, but a fountain of know-how that can improve their ability to feed themselves.

If that realization comes to flower in terms of constructive legislation this month, the prospects are excellent that the twin goals of parity of income for the adequate family farm and parity of opportunity for all of rural America can be reached by the end of the sixties.

Let's keep our wagon hitched to that star.

SITUATION IN VIETNAM

Mr. McGEE. Mr. President, Life magazine has this week summed up the situation in Vietnam in an editorial, "Johnson Means Business in Vietnam," which clearly outlines the nature of America's goal:

Russian communism, a generation older than Chinese, was contained in Europe by 20 years of Western force and firmness and is now beginning to look more like a version of Russian national interest than the unappeasable firebrand it once was.

The implication there is clear, but it is spelled out nonetheless. Life points out that Asia's Red tyrants are aging and that their successors—

will be inevitably influenced by the inherited structure of their world. If they see a string of victories behind the openings ahead, with the West in wavering retreat, they will be more revolutionary than their predecessors. If their prospect is instead one in which the rim of Asia is a strongly guarded homeland of free and prospering people, the younger Reds may choose to concentrate on their copious domestic problems and follow the Russian example of a mature revolution.

It is possible, Mr. President, to contain Red Chinese imperialism. To those who doubt this, to those who raise the dogmas laid down by military leaders about wars in Asia, Life has an answer:

If it is dogmas we need, America has some good ones: The belief that America has a purpose as well as interests in the world, that the purpose and the interests are not regional but global, and that American freedom cannot be protected at the cost of those whose freedom we have promised to defend. Vietnam is the place where these beliefs once more are put to the test.

I ask unanimous consent that this editorial from Life be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

JOHNSON MEANS BUSINESS IN VIETNAM

"This is really war," said President Johnson. But not a "national emergency"; that he refused to declare. A similar ambivalence marked his whole report to the people on his much publicized full-dress review of our Vietnam policy last week.

Vietnam is enough of a real war so that he has doubled the draft call to 35,000 a month and is now sending another 50,000 troops to support the deteriorating Vietnamese resistance. On the other hand, he rejected the immediate call up of reservists and saw no present need for civilian belt-tightening. Our national war aim is perhaps more resolute but still defensive: to prevent Communist domination of Asia. Unchanged also, though more emphatic, is our readiness for "unconditional discussions with any government at any place at any time." In sum, the President's prescription for Vietnam is a marked intensification of what we are already doing—i.e., more of the same.

"More" means deeper involvement in a remote and tragic land where an increasing number of Americans are in fact already dying—over 400 since February 1. Their death places have names like Phu Bai, Danang, Ban Me Thout, Kontum, Pleiku. These place names may someday be chiseled on monuments in Michigan and Kansas, under those other names, once also thought exotic, like Chateau-Thierry, Anzio, Tarawa, Pusan.

"The same" means that any further escalation of the conflict will be by steps as carefully measured as in the past. We fight, says Johnson, to force or induce a negotiated settlement, not to invite "an expanding struggle with consequences that no one can perceive." This caution, coupled with his renewed appeals for peace initiatives from other nations and from the U.N., may disarm some critics of the morality of Johnson's Vietnam policy, especially those from abroad. But while it leaves the President still in control of all the options on the escalation ladder, it does not answer certain other doubts about the practical effectiveness of that policy. Some of the Congressmen who support it do so with more fatalism than conviction. For in this kind of war, more of the same may not be enough.

"Americans do not like long, inconclusive wars. This is going to be a long, inconclusive war." The words are Ho Chi Minh's in 1962. "Son, don't ever get yourself bogged down in a land war in Asia." The words are attributed to General MacArthur on his deathbed and often quoted by Lyndon Johnson himself. These two dogmas have implanted a seed of defeatism in the American mind.

It is part of the long-war dogma that you can't beat guerrillas without great manpower superiority, the minimum ratio being something put as high at 10 to 1. The South Vietnamese Army, decimated by casualties and desertions, is now three times the known strength (about 165,000) of the Vietcong. If American troops were to redress the numerical ratio, it would take over a million of them. Even if these troops were to pacify the entire surface of South Vietnam, so runs the long-war dogma, Ho Chi Minh's "jungle Marxism" would go on burning underground like a mine fire.

From this glum prospect the MacArthur dogma jogs loose a positive fear: that the "bogging down" of American troops on the Asian mainland is an actual aim of Communist long-term strategy. It would drain and pin down their No. 1 enemy and clear the road for aggression elsewhere. As Walter Lippmann keeps arguing, the United States cannot police the entire world, and southeast Asia, where U.S. security is not directly threatened, is a bad place to commit U.S. power. Says Senator RUSSELL, head of the Armed Services Committee and no advocate of withdrawal, "I have never been able to see any strategic, political, or economic advantage to be gained by our involvement" in Vietnam.

These dogmas, fortunately, have not governed President Johnson's decisions.

Ho Chi Minh's guerrilla tactics are indeed successful in the countryside, but they still require him to avoid pitched battles, which he would lose against superior United States-Vietnamese firepower. They are much less useful against the big cities without which he cannot conquer South Vietnam. Moreover, Ho's accumulation of small victories has been compounded by some Pentagon errors in the conduct of this war, particularly as to timing. Because of the reluctant and creeping pace of our commitment, we have generally opposed Ho with too little and too late.

The U.S. commitment in Vietnam is much deeper now. Our men already have combat missions which they are rapidly learning to make more effective. The buildup of five major bases, toward control of the entire east coast, is of dimensions not seen in Asia since the Korean war. The air raids on North Vietnam have many scores of richer targets on their agenda before the possibility of Chinese intervention (or more Russian aid) need deter us. Ambassador Lodge resumes his post with ideas for a new program than can rekindle both the villagers' military resistance and their political hope.

As for Communism's grander strategy, it is of course impossible for the United States to fight tyranny at all times and in all places. But it is perfectly possible to contain Red Chinese imperialism if we so decide.

Russian communism, a generation older than Chinese, was contained in Europe by 20 years of Western force and firmness and is now beginning to look more like a version of Russian national interest than the unappeasable firebrand it once was. The Communist tyrants of Asia are now old men—Mao Tse-tung, 71; Ho, 75—soon to be succeeded by a new generation. The strategies of this generation will be inevitably influenced by the inherited structure of their world. If they see a string of victories behind the openings ahead, with the West in wavering retreat, they will be more revolutionary than their predecessors. If their prospect is instead one in which the rim of Asia is a strongly guarded homeland of free and prospering people, the younger Reds may choose to concentrate on their copious domestic problems and follow the Russian example of a "mature" revolution.

However that may be, this is no time for defeatism about Asia. China is not, either now or inevitably, a superpower dominating her neighbors; only their fear, induced by American withdrawal, could make her so. The President refuses to speculate whether

the Vietnam war will last for "months—or years—or decades," and such speculation is indeed bootless until our new commitment there has shown its military results.

If it is dogmas we need, America has some good ones: the belief that America has a purpose as well as interests in the world, that the purpose and the interests are not regional but global, and that American freedom cannot be protected at the cost of those whose freedom we have promised to defend. Vietnam is the place where these beliefs once more are put to the test.

THE 175TH ANNIVERSARY OF THE COAST GUARD

Mr. PELL. Mr. President, I am proud to endorse the resolution introduced by my distinguished colleague, Senator MAGNUSON, of Washington, establishing August 4 as U.S. Coast Guard Day in commemoration of the 175th birthday of this great armed force and humanitarian service.

The Coast Guard has always been of great personal interest to me. Four months prior to the attack on Pearl Harbor I enlisted in the Coast Guard, my first duty being that of ships' cook. At the end of the war I held the rank of lieutenant and have now the honor of being a captain in the Coast Guard Reserve.

In the State of Rhode Island, we have long been aware of the beneficent presence of the Coast Guard. We know of its unceasing efforts to provide a greater measure of safety to all who travel on or over the sea. Its extensive lifesaving network has saved many thousands of lives and billions of dollars in property. Thousands of Rhode Island boatmen have been the beneficiaries of the Coast Guard's work. In the past year alone, the Coast Guard was responsible for saving or rescuing from peril more than 130,000 persons and the value of ships and cargo saved was nearly $1 billion or approximately two and one-half times the Coast Guard's annual budget. That is a very good return, indeed, for the American taxpayer's dollar.

Besides serving the noble cause of safety at sea, the Coast Guard is hard at work expanding our knowledge of the sea upon which our future survival may depend. Its highly trained port security organization stands ready to protect our waterfronts and harbors from hostile action in the event of emergency, and its approximately 32,000 officers and enlisted personnel maintain themselves in a state of constant military readiness to serve with the Navy should the need arise.

Several weeks ago, the Coast Guard demonstrated its readiness to respond to emergencies by dispatching, at the Navy's request, 17 of its 82-foot patrol boats to help counter North Vietnamese efforts to supply Communist Vietcong units in the Republic of Vietnam.

As our country's oldest, continuous, seagoing military service, the Coast Guard has the distinction of having taken part in every major war in which our Nation has been engaged. In World War II, the Coast Guard's men, ships and planes gave an excellent account of themselves in every theater of operation. Many a Coast Guardsman never returned to his home and loved ones. Some lie buried in lonely graves in the oceans of the world. They have left us a heritage of valor which will never be forgotten.

For myself, I remember with pride that, in 1957, the Coast Guard cutter *Spar* returned to her home port of Bristol, R.I., after completing the first circumnavigation of the North American Continent by an American vessel. This was a significant event in the history of navigation. By her action, the *Spar* fulfilled the dream of navigators since the time of the Cabots to find an eastward passage across the top of the continent.

Along with my fellow Americans I say: Congratulations Coast Guard on your 175th birthday. The prayers and best wishes of the American people go with you for many additional years of rewarding service to country and humanity.

NATIONAL TEACHER CORPS WILL USE YOUTHFUL COMMITMENT AND SERVICE

Mr. NELSON. Mr. President, a few days ago Vice President HUMPHREY delivered a moving address to young Government interns at the annual meeting of the White House seminar. He praised this new generation for restoring the excitement of dialog and questioning to America's college campuses.

Large numbers of young people now are active in campus intellectual ferment, unselfish in commitments to social justice, and willing to devote productive years to service. These youthful qualities, the Vice President concludes, create the climate for such national efforts as the Peace Corps, VISTA—and now the National Teacher Corps.

In view of the timeliness of this excellent assessment of the state of America's young people, I feel all Members of the Congress should have an opportunity to read it. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am honored to be with you this morning at the annual meeting of the White House seminar.

I have had the privilege of meeting with this group for each of the past 3 years.

First, let me say that we are pleased to have your services, if only for one summer. Even in so short a time you can make significant contributions here in Washington. And I think you will gain, too—if only from seeing just how things work here. I hope you will put this experience to good use. At the risk of sounding like a commencement speaker, I will say that your generation faces great tasks and that you will need all the experience and knowledge you can get.

We are surrounded today by a technology which is still in its infancy.

Information is already running ahead of our ability to use it.

International political crises can develop and involve the entire world in the time it used to take for an ambassador to a small country to draft his longhand report on a local uprising.

Two-thirds of the world is poor and seeking to break through, by whatever means, to something better.

We have wealth and power to do great work—or to destroy ourselves.

The point I want to make this morning may seem self-evident. But it bears repeating.

The point is this: That this Nation and world will survive and prosper only if individual man can control the great forces moving about us.

As society becomes increasingly complicated—and, therefore, by necessity, increasingly organized—there is danger of losing sight of the individual.

It is precisely in such a complex society that the individual's needs are greatest. And it is in such a society that we need men and women able to exercise individual judgment and to take individual initiative.

That is why this administration is committed to giving each child entering life full, equal, and free opportunity for personal fulfillment, while at the same time providing for the general welfare.

We seek to create an environment where each American can contribute to and share in the betterment of the human condition. We seek to create an environment in which each man may and will be able to do something for all men. This is the goal of the Great Society.

But we will not reach that goal by government initiative alone. It will only be reached, finally, by the commitment, involvement, and action of individual Americans, each working where he is.

Is our American society today a society of individual involvement? Or is it, as some have charged, a society of individual alienation?

The test is what is happening around us—by the signs and symptoms. I think the signs and symptoms are positive. I think they give us reason for hope and confidence concerning the fate of individual man as well as our society in general.

There is no question, in fact, in my mind that your generation is indeed a generation of involvement.

The best example of this is seen in activity and ferment on campuses across our country. This should not be cause for worry. What is happening indicates that the excitement of dialog and questioning has returned to the campus.

It was not so long ago that we had a college generation of apathy and complacency—a generation of people who simply didn't care about much except their own comfort and security, a generation moved by the herd instinct. But apathy and complacency are not the mark of your generation.

The fact is that more and more young Americans are devoting their productive years to service.

Some people call this "do-goodism." But let me say that I pray the day never comes in our country when a man's best efforts to aid his fellows—to "do good"—are rejected.

Our young people are not selfish. The young people of America know that life is better for them than it was for their parents. They know for certain that it is much better than it was for their grandparents. But they are not saying to themselves and others, "Let's just keep it for ourselves."

This generation, the President has said, may well become known as the volunteer generation.

More than 10,000 young volunteers are now serving in the Peace Corps. More than 3,000 have already returned. And more than 100,000 have asked to participate in this bold and idealistic experiment.

When VISTA—the volunteers in service to America—was launched, more than 3,000 inquiries were received from young people on the first day of business.

These were volunteers for jobs without great financial reward, for hard and often thankless service.

Nothing sums up this life better than a letter written by Robert Rupley, a Peace Corps volunteer killed earlier this year:

"Apathy, ignorance and disorganization are the things we want to eliminate * * * No volunteer can hope for absolute success, nor can he even expect limited success to come easily. In many ways the life of the volunteer who sincerely seeks to effect progress is miserable. That may not seem to be a very hearty recommendation for the Peace Corps, but if we as enlightened people ignore the moral and economic poverty of the unenlightened, we really slight the challenges and needs of the modern world."

The civil rights movement is surely more than anything else a product of the courage and vision of a better America held by the students who first tried to be served in a segregated public facility.

It seems a long time ago, but it was only last year at this time that the Congress responded to this moral challenge and passed the landmark Civil Rights Act of 1964.

This challenge has not gone unanswered here in Washington.

President Johnson, in two memorable speeches—first before a joint session of Congress, and again at Howard University—called for the abolition of discrimination in voting, and faced directly the deeper and more profound effects of systematic discrimination on the social and family life of the American Negro.

This Congress will shortly respond to the first of the President's calls when the voting rights bill becomes law.

But the burden of guilt and shame—a burden of every American—will not be purged until the dignity and self-respect that is the inalienable right of every citizen has been returned—returned to those Americans who have suffered for so long under second-class citizenship.

Your generation has taken this cause, has accepted it, is fighting for it.

Now, President Johnson has proposed a Teacher Corps to attract young people to the crisis areas of education.

The Teacher Corps will enable talented young people and experienced teachers to work where they are most desperately needed—in areas of chronic unemployment and poverty and the ghettos of our urban centers.

Members of the Teacher Corps will offer hope to those without hope. The Teacher Corps can offer promise that there can be a new day—with hard work and enlightened encouragement—such as is now being demonstrated in Project Head Start, which makes each young child an experiment into a better tomorrow.

Yes, this American generation has involved itself in the struggles for world peace, for equal rights, and equal opportunity, for social justice.

What does this renaissance of involvement mean?

Most importantly I believe that it signals the return of the American spirit that was described by John Adams as "one of public happiness"—a spirit, in the words of Adams, "that possessed the American colonists and won the Revolution even before it was fought * * * a spirit which is reflected in the life, in participation of public discussion and public action. The spirit of public happiness is a joy in American citizenship, in self-government, in self-control, in self-discipline, in dedication."

The public business ought not to be a gloomy business. We are talking about the business of a great people essentially optimistic, outgoing, idealistic, and enthusiastic.

The spirit that John Adams talked about remains alive today.

For democracy to work, the individual must feel a responsibility for the course his country is following, and he must know that his desires and efforts do make a difference. This generation has reaffirmed the importance of the individual in the cooperative effort of all men to improve our society.

So, as I conclude, let me salute you for your involvement in the future of your country and the world. It will be your responsibility sooner than you think.

DRURY BROWN ON AERIAL BOMBING IN SOUTH VIETNAM

Mr. CHURCH. Mr. President, Drury Brown, editor and publisher of the Blackfoot, Idaho, News, always writes with keen insight on the subject of Vietnam. I ask unanimous consent to have his editorial of July 20 printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Blackfoot News, July 20, 1965]

IT'S FOR THEIR OWN GOOD

One of the most disturbing stories to come out of war-torn South Vietnam was that written by Associated Press Writer John T. Wheeler and carried on the front page of the Blackfoot News Monday, July 19.

It told of how the noncombatants have become the victims of the battle that our Air Force is compelled to wage in that tortured land.

Ba Gia is a village close to the capital of South Vietnam. Theoretically, the people of the village are on the side of the government in Saigon.

But the entire populace of the area is infiltrated with an element of the guerrilla Vietcong. Perhaps a sizable portion of the population secretly hopes the Vietcong will win its war of revolution with the Saigon Government.

But the run of the mill population undoubtedly wishes to be left alone. Unfortunately, that is impossible. A government fort is nearby.

When not strongly patrolled by U.S. troops, the fort is a pushover for guerrilla attack. The Vietnamese troops flee or are slaughtered. The Vietnamese commander of the area calls for help from the U.S. Air Force. Our planes fly over the town and plaster it with bombs and napalm jelly to fire the area.

By this time the guerrillas are long gone. The only inhabitants are noncombatants. They are the ones that are blown to pieces or are incinerated by the flaming napalm.

When the Vietnamese commanders are satisfied the area has been saturated sufficiently, they move in with U.S. advisers, and if he can overcome the handicaps placed by the military, a reporter like John Wheeler or Malcolm Brown.

In his poignant report, Wheeler told of entering the smoldering ruins of a house that contained the remnants of wedding decorations. On the floor of another gutted house was a can of cooking oil with the clasped hands emblem of the U.S. Aid program.

But the inmates of the village looked at the Americans with hate in their eyes. With the innate decency of most Americans, those servicemen and observers must have cringed.

How do you convince people like these villagers that the battle we are waging for them is for their own good?

D.R.B.

SENATOR DODD'S GUN LAW HEARINGS

Mr. HARTKE. Mr. President, as a cosponsor of S. 1592, the gun control law introduced by Senator DODD, I am always interested in the comments of the press on the matter.

The Washington Post made such a comment in an editorial which appeared last Sunday, August 1, in which it commended the bill's author for the care and the detail with which he has held the hearings on this question. As the editorial notes, the bill "is not a cure-all to the dreadful situation in this country which makes possible nearly 5,000 homicides and 8,000 suicides with guns each year." But Senator DODD certainly focused the national attention on a problem heretofore generally overlooked, not in any fanatic way but in a spirit of amity toward our sportsmen and gun collectors and all who have a legitimate use of firearms.

Such signal service deserves the kind of approbation which this editorial, and the many with which the Washington Post has preceded it, gives. I ask unanimous consent that the editorial may appear in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SENATOR DODD'S HEARINGS

Senator THOMAS J. DODD has performed a distinctive service in the lengthy hearings on his bill to limit the mail-order sale of firearms. Both advocates of gun control and their opponents had ample opportunity to expound their views. As a result some modifications have been made, but the bill remains intact and should be promptly passed when it comes before the Senate.

The Senator's bill is not a cure-all to the dreadful situation in this country which makes possible nearly 5,000 homicides and 8,000 suicides with guns each year. It is, however, a sensible step that is rightly in the purview of the Federal Government; a step one could not imagine being blocked in the grief-filled days when the Nation discovered its President had been murdered by a weapon shipped unquestioningly to a man with a history of mental illness.

We hope Federal legislation will encourage local legislation throughout the Nation to achieve registration of all firearms and to limit the ownership of these weapons to persons over 21 who have not been convicted of a crime and who have passed a test demonstrating their knowledge of the safeguards to be observed in using firearms.

Opponents of gun legislation keep returning to the argument that it will infringe the rights of citizens in a free society, but it is a hollow claim. When the second amendment was drafted this country was largely unsettled wilderness and for many a gun was as necessary as is a refrigerator today. Our crowded urban civilization can no longer tolerate the indiscriminate proliferation of firearms to satisfy the whims of gun fanciers.

THIRD ANNIVERSARY OF ESTABLISHMENT OF U.S. ARMY MATERIEL COMMAND

Mr. KENNEDY of Massachusetts. Mr. President, August 1 marked the third anniversary of the establishment of the U.S. Army Materiel Command. The function of this Command is to perform the basic logistics mission of the Army, including research, development, procurement, production, supply and maintenance. This is a large job and it has been done well. I ask unanimous consent to include in the RECORD a more thorough description of the Command's activities to date.

Accelerated response to the Army's need for better weapons, equipment and supplies has become the hallmark of the U.S. Army Materiel Command. New levels of effectiveness and economy have been reached from research and development through procurement and distribution, and streamlining and improving both in-house operations and relationships with American science and industry.

In terms of the Department of Defense cost reduction program. AMC's dollar savings have far exceeded its established goal for the third successive year. Although final figures have not been compiled, Gen. Frank S. Besson, Jr., commanding general of AMC, estimates that AMC will show a savings of more than $500 million during fiscal year 1965 against a goal of $433,330,000.

During fiscal year 1965 AMC total military and civilian manpower decreased 5 percent from 172,500 to 163,000. From an original of 278 local and regional facilities taken over from the Army's Technical Services in 1962, AMC has reduced its nationwide network of installations and activities to 191.

Approximately 800 individual organizational consolidations were accomplished during fiscal year 1965 to reduce installation support costs. These actions ranged from unifying of maintenance operations on a single installation to the placing of two or more installations under a single management.

AMC's ability to react quickly and effectively was put to a test, when U.S. troops were dispatched to the Dominican Republic. Initial weapons and equipment support for U.S. troops was accomplished through AMC's automatic supply support machinery, based upon predetermined requirements for type and size of the force involved. This automatic support was rated effective in all respects.

Experience in Vietnam and the recent approval of the Army's first Airmobile Division have given a new sense of urgency to AMC's development of new Army aircraft and aircraft support. In addition to a continuous program to adapt and improve existing aircraft and equipment to meet requirements in Vietnam, AMC has stepped up its research development and procurement activities over the past 12 months to meet the Army's overall air support needs.

Among major aircraft actions during fiscal year 1965 was the initiation of multiyear procurement of a new light observation helicopter. Other aircraft achievements have included two XV–5A vertical short takeoff and landing lift-fan research aircraft evaluation; first flight test of the XV–9A experimental hot cycle helicopter, and other aircraft with increased weapon loads to serve as escorts for transport helicopters. Other action was taken on both land and sea to increase our advantage militarily in Vietnam.

In addition to supplying U.S. forces at home and abroad, AMC furnished support to 80 national and international organizations under the international logistics programs. The AMC has helped with coproduction in both Italy and Germany. They have sent to these countries both tanks and armored personal carriers, resulting in aid abroad and industrial production at home.

The AMC this year established the Army industrial material information liaison office program—AIMILO—to increase competition for the Army's procurement dollar through providing industry with long-range advance planning procurement information—APPI—on future Army military needs.

AMC's continuing drive to improve the quality and reliability of Army weapons and equipment was highlighted over the past year by the widespread application of the zero defects concept, a program designed to motivate all personnel, from executive to shop workers, to be more quality conscious.

Other significant actions during AMC's third year as the Army's consolidated source of supplies and equipment include:

Development of a lightweight—44 pounds—atomic clock which measures time down to a ten-billionth of a second, used for setting frequencies on radios, tracking of missiles and satellites, and synchronization of radars.

Development of a Morse code reader, the size of a cigarette pack, that plugs into an Army radio and makes Morse code as easy to read as an electric signboard.

Completion of scheduled overseas deployment of new family on FM radios, four general purpose vehicles, and the Sergeant, Pershing, and Hawk missiles.

In an anniversary message to AMC personnel, General Besson, who has headed AMC since its inception in 1962, cogently summed up the aims and accomplishments of the Army Materiel Command:

> Our support for the soldier in the field—from Korea to Berlin, from the Dominican Republic to Vietnam—is on schedule. The weapons, equipment, and supplies we are providing are worthy of the men who use them. This is no time, however, to rest upon our laurels. As the pace quickens, the mounting demands upon our skills and experience must be met by each of us with determination, dedication, and with a real sense of urgency.

THROWING AWAY EXPORT MARKETS

Mr. McGOVERN. Mr. President, the commercial news service Comtel, a subsidiary of Reuters, the English news service with a bureau here in Washington, carried a story on Tuesday, August 3, that a Russian trade delegation has arrived in Canada to study two-way trade with the Canadians.

Significantly, the eight-man delegation headed by the Deputy Minister for Foreign Trade, includes top Russian wheat experts and the itinerary of the party includes Montreal, Winnipeg, and other Canadian wheat centers.

The party is said to be studying all aspects of trade with Canada but it is obvious that the central concern is wheat. The Russians are in the market for a continuing supply of wheat, as our own Foreign Agricultural Service indicated some time ago. Their experts, like ours, see clearly that there will be the continuing necessity for a number of years for Russia and the Eastern bloc nations to buy wheat by the millions of tons.

The Russian trade mission is in Canada, with no plan to come to the United States which has an 800 million bushel wheat stock on hand, millions of idle wheat acres, and economically depressed wheat producers. They will ignore American wheat stocks because if they seek to buy wheat in this country they will be confronted with shipping requirements and excess shipping charges which make the product of our farmers as much as 10, 11, 12, and even 15 cents per bushel more expensive than Canadian wheat.

In the wheat marketing year which closed about July 1, Russia and Eastern European nations purchased from Canada, Argentina, Australia, and France an estimated 5.6 million tons of wheat, or better than 200 million bushels, worth nearly $350 million.

The United States did not get any of this business for the same reason that the Russians are now bypassing us: an administration ruling in 1963, that 50 percent of any wheat sold to Soviet bloc countries, even though sold for cash on normal commercial terms, must be moved in American ships.

U.S. shipping charges are considerably above world shipping rates because our higher standard of living calls for higher wages for our maritime workers.

Shipping rates on wheat from the Gulf of Mexico to Black Sea ports is $18 per ton on American vessels and $9.25 per ton of foreign vessels. This amounts to 48 cents per bushel on U.S.-flag vessels and 25 cents per bushel on foreign ships—a difference of 23 cents per bushel.

This means that on a large cargo, shipped 50 percent in American bottoms, U.S. wheat would cost the Russians or Eastern European importers 11½ to 12 cents per bushel more than Canadian or other competitors' wheat. This is in a market on which fractions of a cent per bushel determines the sale. One cent per bushel on the Eastern bloc's purchases last year would have amounted to $1.5 million. An 11 cent differential would have meant a difference of $16.5 million.

The Export Control Act to which this 50-percent American shipping ruling has been administratively attached actually provides that no restrictions can be put on the ordinary commercial sale of American agricultural commodities except for security or foreign policy reasons. Yet, a determination was made in 1963 that it was in our national interest to make wheat sales to Russia.

The fact is that the shipping restriction was concocted for domestic political reasons and is one of the most irrational, self-defeating regulations ever devised. It results in our farmers losing an export market for at least $100 million worth of wheat annually, and a loss of that much in our balance-of-payments effort. At the same time, it does nothing to strengthen our maritime workers since it gives them 50 percent of no business.

Until November 1963, all commercial U.S. wheat exports—wheat exports outside of food for peace under Public Law

480—were exempt from the 50-percent provisions of the Cargo Preference Act. In other words commercial wheat could be shipped in western ships where available at the lowest possible cost without regard to the flag of the vessels. When the Soviet Union came to the United States to buy wheat in the fall of 1963, the administration in authorizing such exports, applied 50 percent U.S.-flag shipping requirements under authority of the Export Control Act. This was done even though the business transactions were strictly commercial, and were in no way related to Public Law 480 or involved any unusual credit or credit guarantees. The obvious reason for the move was to make the wheat sales more acceptable to the maritime workers and leaders. Thus, for the first time, the provisions of the Cargo Preference Act intended to apply for food-for-peace Public Law 480 shipments, were applied to a U.S. commercial export transaction. There is no such requirement imposed on any other commodity sold to Russia or Eastern Europe. We can sell them steel, autos, trucks, industrial machinery, or anything else except strategic materials and move them without restriction, in foreign vessels at world freight rates. No commodity except the farmers' wheat—a foodstuff that cannot be shot in guns or used to manufacture critical war implements, is impeded by this illogical regulation.

During the confusion that followed the application of U.S. shipping preference provisions to Russian wheat purchases, it was discovered that no branch of the Government had authority to absorb the U.S. freight rate differentials on the commercial exports. Therefore the extra cost of the shipping requirements was to have been borne by the buyer—in this case, the U.S.S.R. The Russians flatly refused to accept the additional cost, or to tolerate the discrimination. The issue was finally solved in part by the U.S. Department of Agriculture's acceptance of an extra high bid for export subsidy on the Durum wheat included in the total sales contract. Only half of the total sales volume to the U.S.S.R. that had been originally discussed by the Russians was realized. The remaining 2 million tons of potential wheat sales went on the shoals of the 50-percent shipping requirement. Our competitors picked up this business.

The U.S. nonliner fleet presently derives 90 percent of its business from Public Law 480 food-for-peace shipments, three-quarters of that in wheat. While the U.S. merchant fleet is carrying only 8 or 9 percent of total U.S. exports, it is carrying 38 percent of all U.S. wheat exports. The American wheat economy is already providing substantial business to U.S.-flag shipping under Public Law 480. Commercial wheat exports should not be impeded by noncompetitive U.S.-flag shipping requirements.

The effect of the 50-percent U.S.-flag shipping requirement implemented in 1963 on validated licenses to export wheat to Russia and other Eastern European countries has been most costly to the American economy this year. Since July 1, 1964, Russia has purchased from our competitors in other countries for cash payment more than 1.4 million metric tons of wheat in addition to what she imported the previous year. These purchases included 1.4 million tons from Argentina, 25,000 tons from Canada, 750,000 tons from Australia, and 325,000 tons from France. No purchases have been made by the Russians from the United States.

In addition, the other East European countries of Czechoslovakia, Hungary, Bulgaria, Poland, and East Germany have purchased more than 2,840,000 tons of wheat since July 1, 1964, from these same countries and Mexico. The United States again has not shared at all in these sales.

U.S. grain exporters and market development officers have testified that U.S. wheat sales could have been made, and indeed may still be made, to Soviet bloc buyers if our delivered price can be competitive with other exporting countries. This has not been possible because of the dramatically higher ocean freight rates associated with 50 percent use of U.S.-flag "tramp" ships compared with open market rates, which are 50 to 100 percent higher than comparable foreign rates.

The unfortunate effects of 50-percent shipping in connection with the licensing requirement has been:

First. Lost opportunities in making wheat export sales for dollars to strengthen our economy and improve our balance of payments.

Second. Increased pressure of unsold wheat stocks on our wheat producers and Government agencies.

Third. The result that the requirement has yielded our merchant marine 50 percent of no business.

Expanded trade with the Soviet bloc has been declared to be in our national interest. Yet we have defeated this decision by an unworkable shipping restriction.

It is essential that the United States develop means of supporting the U.S. nonliner merchant fleet without requiring U.S.-flag shipping to be an impediment to any agricultural exports financed under U.S. Government credit guarantees. Such a subsidy proposal might be patterned after the principles involved in the direct subsidy system in effect for the U.S. liner fleet. The proposal might include the provisions that the 50-percent rule of the Cargo Preference Act could still continue on Public Law 480 shipments, but should not be applied to commercial transactions. A direct subsidy should enable the U.S. nonliner shipping companies to capture a fair share of U.S. commercial export transportation without preferential guarantees.

The U.S. merchant fleet now carries only 8 or 9 percent of the total U.S. export business as compared to over 30 percent 30 years ago. There will be a strong appeal to somehow increase the business volume on U.S.-flag shipping in working out the new merchant marine policy mentioned by the President in his state of the Union message.

The elimination of 50-percent U.S. shipping from commercial agricultural exports would not in any way adversely affect our merchant marine because no such business can now be done where the requirement is in effect. In fact, the following benefits would accrue to our overall economy if we were to remove the shipping restrictions:

First. Improvement in our balance of international payments from increased competitive commercial exports—particularly grain including primarily wheat. Any freight payment to foreign shipping in connection with such possible exports would be vastly more than offset by dollar receipts in payment for the exported commodities.

Second. Increased jobs for our longshoremen, and business for our docks, from increased exports; as well as for interior transportation via railroads, trucks and barges.

Third. Increased farm income and reduced Government costs for storage of grain surpluses and for farm production adjustment programs.

I do not oppose support of our maritime fleet. I do not oppose the cargo preference provisions applicable to Public Law 480 shipments, enacted as a matter of maritime policy. I am prepared to support a direct subsidy to our nonliner fleet.

We should, however, end the unwise effort to use the Export Control Act for an unintended purpose, resulting in loss of trade, jobs and export income rather than in any gains for anyone—farmers, shippers or maritime workers. We should certainly question a restriction that undercuts a basic foreign policy decision. A new wheat marketing year has just started, Mr. President.

Considerable wheat has already been harvested. The brigade of combines which moves from Texas north through the wheat country cutting and threshing our abundance of the "staff of life" has started the trek north.

The new crop is expected to run better than 1¼ billion bushels. We will use about half of it for food and seed.

American farmers could market millions of bushels of it to Eastern European nations, and Russia—to say nothing of China—if we could somehow persuade the Department of Commerce and the maritime industry, including its labor force, to give up this "50 percent of nothing" regulation that is now enforced only against an agricultural commodity and only against the countries of Eastern Europe and the Soviet Union.

During the 1964–65 marketing year the Communist world purchased 12 million tons of wheat, or approximately 450 million bushels. Trade experts estimate that Red bloc purchases will be as large in the 1965–66 marketing year. The Russians are now obviously in Canada to start negotiating for the needed supply. They also estimate that the United States could get 2 million tons minimum of such a volume of business, or at least 75 million bushels, were it not for our self-defeating discriminatory shipping restriction.

The determination has already been made that sales of food to the Eastern bloc nations is in the national interest.

The regulation, therefore, is not in existence for security or to further our foreign policy.

Even though there is no basis in law for it, if this regulation was a matter of life or death to the U.S. maritime fleet, and to the maritime workers of the Nation, the matter might be debatable.

But there are absolutely no sales of wheat under the existing regulations. Everyone involved in the United States—farmers, our internal transportation system, dockworkers, sailors, fleet owners, and the Nation—are losing as a consequence of the regulation.

In the name of commonsense, Mr. President, let the administration set aside this foolish restriction that benefits no one and hurts the entire national economy.

The review underway by the Export Advisory Commission and Interagency Committee of executive agencies should not take a fortnight to complete. The extent of the wheat crop in northern hemisphere countries will be known very soon, supplies for the coming year will be known in each country, importers will know the extent of the purchases they must make, and the pattern of international transactions to provide 1965–66 wheat supplies in each nation will begin to take shape.

Every dollar in wheat trade we lose because of delay will have to be charged to folly—the sheer, indefensible folly of insisting on 50 percent of nothing—that 50 percent of no sales move in American bottoms.

Let me conclude by repeating that I am prepared to support direct assistance to our maritime industry. We ought to assist the industry in building an efficient fleet. I am not calling for the repeal of the Cargo Preference Act as it applies to Public Law 480 shipments.

I am calling only for the termination of a regulation that benefits no one and does serious damage to the American farmer, our balance of payments and the American economy.

I ask unanimous consent, Mr. President, to put into the RECORD an article from the July 12 issue of Foreign Agriculture by Mr. Raymond Ioanes, Director of the Foreign Agricultural Service of the U.S. Department of Agriculture, indicating that there will be a continuing opportunity to sell a considerable quantity of wheat to the Eastern bloc of nations.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMMUNIST WHEAT-BUYING NOW A BIG FACTOR IN WORLD TRADE—ALMOST 40 MILLION TONS OF FREE WORLD WHEAT HAVE BEEN SHIPPED TO COMMUNIST COUNTRIES IN THE LAST 4 YEARS, MAINLY FROM CANADA, AUSTRALIA, AND THE UNITED STATES

(By Raymond A. Ioanes, Administrator, Foreign Agricultural Service)

Large-scale buying of free world wheat by Communist countries has become a new, major factor in international grain trade. It is affecting production patterns in some exporting countries. It is bolstering incomes of commercial wheat growers, particularly those in Canada and Australia. And it is a development which could well be with us for a number of years to come.

West-East movement of wheat in the 4 fiscal years 1961–64 amounted to almost 40 million metric tons—1,440 million bushels. This large export volume compares with the 1964 U.S. wheat crop of 1,290 million bushels.

Demand for Western wheat has come from all Communist "camps."

Red China has been the leading buyer, its imports totaling over 615 million bushels in 1961–64. Other countries in the Chinese orbit—Albania, North Korea, and North Vietnam—took about 25 million bushels more.

The Soviet Union imported 375 million bushels for its own use, virtually all of it following the disastrous crop failure in 1963. Other Eastern European countries (excluding Albania) and Cuba were customers for an additional 425 million bushels.

Free world exports to Communist countries in the current 1964–65 year, though less than in 1963–64, have been substantial. Actual shipments for the full year are estimated at about 410 million bushels, of which about 175 million are expected to go to Red China and countries in its sphere of influence, and 235 million to East European Communist countries and Cuba.

Communist buying of Western wheat has continued at a lively clip in recent weeks. Part of these new purchases are scheduled for delivery in 1965–66.

OUTPUT STIMULATED BY COMMUNIST BUYING

Of the 4 year 1961–64 exports of 1,440 million bushels, the United States furnished 273 million, or 19 percent. Of that amount, 195 million went to Yugoslavia and Poland, 65 million to Russia (most of it in 1963–64), and the remainder to other East European countries.

Canada and Australia, however, have been the big suppliers. Between them they furnished 62 percent of all the wheat moving to the Communist world in 1961–64. Canada sold 547 million bushels, Australia 348 million.

The Communist market unquestionably has helped to stimulate increased wheat production in these two countries. Although some of the stepped-up output has come from higher per-acre yields, the key factor has been expanded acreage. Canada's land in wheat last year was 30 percent (7 million acres) above the 1955–59 level; Australia's was 60 percent (8 million acres) above the average.

Argentina's acreage expansion has been a more moderate 16 percent, or 2 million acres, above average. France's land in wheat last year just about equaled the 1955–59 level. The same was true of the United States, which controls wheat acreage.

Total gains in wheat production in the five main exporting countries in 1961–64 approximate the volume purchased by Communist customers. Cumulative gains over the 1955–59 average totaled 1.7 billion bushels, as contrasted with the 1.4 billion bushels purchased by Communist countries. In other words, new demand for wheat has been offset by new supply, notably in Canada and Australia.

Probably because of this offset in demand-supply factors, Communist buying has not disturbed export wheat prices to any perceptible extent. For example, U.S. annual computed net export prices of No. 1 Hard Winter wheat, ordinary protein, at gulf ports, have not varied since 1960 by more than 3 cents from the average of $1.74 a bushel. (The computed next export price is the annual average U.S. domestic wheat price at port position minus the annual average subsidy, or, in 1964–65, the domestic price at port position, plus 25 cents—the cost of the export certificate, minus the subsidy.)

PURCHASES EXPECTED TO CONTINUE

These are the statistical outlines of West-East wheat trade to date. But what about the future of that trade?

Any answer—and it obviously cannot be precise—depends on such factors as weather, population growth, Communist farm policies, and cold war strategy.

Eastern Europe learned in 1963 that there's many a slip between planting time and harvest.

Russia, in particular, was plagued by bad weather. That's understandable. Much of Russia's wheat land is high risk, climatically. Most of the country's farming area is in the same latitude as Canada. Moscow is almost 1,000 miles closer to the North Pole than is Minneapolis. Growing seasons are short. There is an extensive semi-arid zone.

The 110 million acres planted to wheat in the New Lands area are especially susceptible to drought. But the 50 million acres in the Ukraine, Moldavia, northern Caucasus, and elsewhere also suffer occasionally from unfavorable temperatures, insufficient soil moisture, and other hazards.

Russia also must worry about weather in other eastern European countries, particularly Czechoslovakia and eastern Germany, and Cuba. The Soviet Union supplements wheat supplies of these countries; it furnished 395 million bushels in 1961–64. Needs of these countries increase, of course, when bad weather hits all of Eastern Europe.

SOVIET YIELDS FLUCTUATE

A review of Russia's wheat harvests since World War II shows an average yield of 11.5 bushels per acre—as against 21.2 in the United States. In that period, Russia had one extremely good year, 1958, when the yield hit 13.9 bushels, and one very poor season, 1963, which brought a yield of only 9.4 bushels. This yield series, based on U.S. Department of Agriculture estimates rather than official Soviet yield figures, shows a cyclic pattern. The peak of the cycle was reached in the late 1950's. The trend at present appears to be downward.

It is true that the Soviet Union's huge wheat acreage—160 million in recent years—provides powerful production leverage. For example, the difference between postwar high and low wheat yields of 4.5 bushels means, on 160 million acres, a production difference of 720 million bushels, or over 2½ times as much wheat as the U.S.S.R. purchased from the West in 1963–64.

With two or three good crops in a row, Russia can rebuild reserves, meet domestic needs and commitments to other Communist countries, and even have some wheat to export to the West, as has been the case some years. But if crops are no more than average for 2 or 3 years, and exports are large, reserves dwindle.

Russia's 1964 crop was good, but did not permit full replenishment of reserves. The 1965 crop is expected to be poorer than the 1964 outturn, though nowhere nearly as bad as the 1963 debacle. Much of the grain Russia currently is purchasing is going into reserves or is being purchased for shipment to other Communist countries.

Russia's food responsibilities have been increasing. Its population increased from 215 million in 1959–61 to about 226 million today, and it will be close to 245 million in 1970. Population expansion also is taking place in the other Communist countries and Cuba.

All these people are critical of food shortages. They want, in particular, more meat, milk, poultry, eggs, fruit, and other high-cost items than they have been getting.

NEW PLAN AIMED AT BIGGER CROPS

The Soviet Government, well aware of this dissatisfaction, has announced a new plan which could mean bigger harvests. The program, briefly, would step up prices paid producers and give them special incentives to exceed quotas; give farm workers more freedom to produce crops and livestock on privately owned plots; let management have more say in the planning and carrying out

of farm operations; and, most importantly, increase the total investment in agriculture by 71 billion rubles ($78.9 billion) over the next 5 years. The massive fertilizer program started by Khrushchev has been largely continued. Introduction of new, superior wheat varieties is apparently proceeding at a good pace.

It can be seen that the wheat outlook for Eastern Europe is made up of pluses and minuses. The new Soviet farm plan could well be a plus—though it must be remembered that many earlier plans for improving Russian agriculture have not been realized. Russia's great wheat-producing potential is a factor favoring the Communist side of the equation. At the same time, population is putting ever-increasing pressure on supplies; reserves are relatively low; the weather of Eastern Europe is always capricious. The possibility is strong that Eastern Europe—as a whole—will continue to import free world wheat in the years immediately ahead.

WEATHER HAZARDOUS IN CHINA

Communist China's wheat problems are somewhat like those of the Soviet Union.

About 90 percent of Red China's production is winter wheat. It is produced in a high-weather-risk area that takes in much of north China, extending southward to central Hunan and Kiangsi Provinces, and westward to central Szechwan Province and the western boundary of Shensi Province. Droughts are common; but so, conversely, are periods of unusually wet weather, followed by floods. Insect damage and loss of grain from rust occur frequently.

Much of the spring wheat is grown in Manchuria and Inner Mongolia. The soil is fertile; but the growing season is short, freezes are common, and rainfall is scant.

Red China's agriculture, even more than Russia's, has suffered from underinvestment and overregimentation, but the situation is improving. More public funds are being channeled into agriculture; the production team of 20 to 30 families is replacing the huge communes; and peasants are being given private plots and encouraged to raise poultry, hogs, and vegetables. The government also has begun to step up fertilizer production and imports.

Food output in 1964, aided by more favorable weather, was the best in several years. But the 1965 winter wheat crop was planted under unfavorable conditions; drought again is a menace. The harvest this year is expected to be smaller than the one harvested last year.

THE POPULATION PROBLEM

China's population continues to soar. In 1951, the Communist census showed 583 million people. In 1961 it was 696 million. This year it is 750 million, and by 1970 it is expected to be 827 million.

The Chinese Government is trying to restrain the stork. It has established birth control clinics throughout the country; it has authorized abortion divisions in hospitals. It has set the marriage age for girls at 18 years and for men at 22, but has encouraged young people to postpone marriage to the middle and late 20's—and then to adopt family planning based on very few children, preferably two. But as Chou En-lai himself admits, policing such matters in rural areas is virtually impossible.

The Chinese seem to be resigned to continued wheat imports. A multi-year agreement negotiated with Canada calls for deliveries of grain over periods of more than 1 year. Chinese officials also have indicated that it is official economic policy to import cheaper grains, including wheat, and to export the higher-priced rice and soybeans.

SELLING RICE, BUYING WHEAT

The Food and Agriculture Organization reports that Red China's rice exports have expanded from 367,000 metric tons in 1961 to 700,000 in 1964, much of the total being sold for hard currencies to Hong Kong, Macao, Malaysia, West Germany, and the Benelux countries. China recently sold 120,000 tons of rice to Japan. (China also has bartered some rice with Ceylon, Indonesia, and Cuba.)

Selling rice and buying wheat makes sense. The Chinese sell their milled rice for about $120 a metric ton and buy wheat for about $70 a ton. The caloric values are close—363 calories per hundred grams for milled rice against 330 calories for whole-grain wheat.

Future West-East movement of wheat probably will be uneven. Some years, as in 1963–64, it might be quite large. Or, conceivably, it might be rather small. But barring serious deterioration in East-West relations, it seems likely that the Communist countries as a group will continue to be importers of free world wheat.

PRESIDENTIAL APPOINTMENTS OF ABE FORTAS, JOHN GARDNER, AND JOHN CHANCELLOR

Mr. PELL. Mr. President, I rise to congratulate the President on his three most recently announced major appointments, Abe Fortas, John Gardner, and John Chancellor. I know and admire each one of these men and cannot imagine finer appointments. It is with particular pride and pleasure that I shall support and vote for each one of them.

At this time I ask unanimous consent to insert an editorial which appeared in the Providence Journal, Friday, July 30, 1965, in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PRESIDENT MAKES THREE EXCELLENT APPOINTMENTS

The latest Presidential appointments conform to the high standards President Johnson has established in seeking out highly qualified candidates for high posts in government.

John Chancellor, named to direct the Voice of America, is a competent reporter and commentator with 15 years of experience in this country and overseas.

Abe Fortas, selected for the vacancy on the Supreme Court, is a distinguished member of the bar, a former professor of law at Yale, a former Under Secretary of the Interior Department, and a man with a long record of service in other governmental capacities in Washington.

John W. Gardner, appointed to be the new secretary of Health, Education and Welfare, has an admirable record as president of the Carnegie Corporation, a private foundation, and as an articulate advocate of improvement in the field of education.

There is some reason to suppose that President Johnson may have had to exercise his talents of persuasion in winning acceptances from these appointees. Mr. Fortas was said to be reluctant to leave his private practice of law for a place on the high court. Mr. Gardner describes himself as "a lifelong registered Republican," and, as such, may have been hesitant to accept a chair in the Cabinet of a Democratic President. But if Presidential persuasion was required, it was effective, and the President has come up with appointees eminently qualified for the positions.

Mr. Gardner will take over an enormously difficult administrative task at the Department of Health, Education, and Welfare. The previous occupants of that post, Mr. RIBICOFF and Mr. Celebrezze, found themselves handicapped by a shortage of administrative assistance and frustrated by the semi-independent bureaucracies that had developed in the sprawling department with its 150 separate programs and nearly 90,000 personnel.

Some of the earlier difficulties and frustrations may be lessened for Mr. Gardner, however, first because of his familiarity with the department and its problems, and, second, because Congress is now putting the final touches on a measure that will give him three additional assistant secretaries.

President Johnson has insisted that in making appointments he would seek out the best-qualified candidates wherever he could find them. His latest appointments fit into that pattern.

THE "FIXING" OF TRAFFIC TICKETS IN THE DISTRICT OF COLUMBIA

Mr. MORSE. Mr. President, this morning's Washington Post carried an article headlined, "Traffic Fines Increase $436,400 Since MORSE's Anti-fixing Campaign." The first two paragraphs read:

Annual revenues from traffic fines in Washington have increased by nearly half a million dollars since Senator WAYNE MORSE, Democrat, of Oregon, launched his campaign against ticket fixing, according to court of general sessions records.

The records also show that the number of tickets adjusted by police and the Corporation Counsel's Office dropped drastically from 38,410 in fiscal 1964 to 9,119 in fiscal 1965.

I ask unanimous consent that the entire article may be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRAFFIC FINES INCREASE $463,490 SINCE MORSE'S ANTIFIXING CAMPAIGN

(By Helen Dewar)

Annual revenues from traffic fines in Washington have increased by nearly half a million dollars since Senator WAYNE MORSE, Democrat, of Oregon, launched his campaign against ticket fixing, according to court of general sessions records.

The records also show that the number of tickets adjusted by police and the Corporation Counsel's Office dropped drastically from 38,410 in fiscal 1964 to 9,119 in fiscal 1965.

Actual revenue collected by the Central Violations Bureau amounted to $3,266,220 in the fiscal year ending June 30, 1964, and $3,729,710 for fiscal 1965. This was an increase of $463,490—or 14.2 percent.

A court official indicated the increase in revenues stemmed both from MORSE's campaign and from stepped-up police patrols, more parking meters, and larger traffic volume in the District.

It was in April 1964 that MORSE lashed out against ticket fixing in a Senate speech, but the actual crackdown began that December when he asked the District commissioners to send him a weekly report on all adjusted tickets.

The records show that, during fiscal 1964, 33,648 tickets were "withdrawn" by the police after issuance and 4,762 were adjusted by the Corporation Counsel's Office. For fiscal 1965 the police figure dropped to 4,604 and the Corporation Counsel's total to 4,515.

Putting a damper on pretrial adjustment of tickets apparently has not resulted in an increase in traffic cases taken to court, as some suggested it would. Between fiscal 1964 and 1965, the number of traffic case defendants requesting trial dwindled from 4,907 to 3,569.

Among 30 tickets adjusted from July 12 to July 16 was one involving a parking citation

against Christine R. Davis, staff director of the House Government Operations Committee.

Her ticket was adjusted after receipt of a letter from Committee Chairman WILLIAM L. DAWSON, Democrat, of Illinois, who asked that the charge be dropped because Mrs. Davis was on official business, was displaying an official parking permit card and was unaware she had to move her car from the official Government zone by 4 p.m.

Mr. MORSE. Mr. President, 9,119 fixed traffic tickets are still entirely too many. An analysis of the traffic tickets—and I have given some time to an analysis of them—shows that many "fixes" are quite unjustified.

I wish to discuss one shocking case.

There was delivered to my office this morning a copy of the weekly traffic-ticket-fixing report from the Chief of the Metropolitan Police Department and the Office of the Assistant Corporation Council for the District of Columbia, for the period of July 19 through July 23, 1965. This report was delivered to my office in compliance with my letter to Commissioner Tobriner of December 17, 1964, requesting such reports on a weekly basis. Mr. Tobriner has complied with that request.

The report which I received this morning contained a total of 44 traffic tickets which had been fixed by the Office of the Assistant Corporation Counsel. Of the 44 traffic tickets which were fixed by the Corporation Counsel's office, 12, or more than one-third, were fixed for employees of the Federal and District of Columbia Governments.

Of the 12 traffic tickets fixed by Mr. Clark King, were 2 traffic tickets fixed for Mr. David C. Acheson, the U.S. attorney for the District of Columbia. These tickets were fixed at the request of the U.S. attorney.

According to the information furnished me this morning by Commissioner Walter Tobriner, Mr. Acheson received a traffic ticket at 2:15 p.m. on June 18, 1965, and another traffic ticket at 1:55 p.m. on June 22, 1965, for parking his personal automobile—a Volkswagen, bearing tag number 1EG26 in a restricted zone.

Mr. Acheson states in a memorandum to his assistant, Mr. Tim Murphy, that:

> On two successive occasions, I have parked by a sign reading "Reserved for Government Officials," while attending to Government business at the Bureau of the Budget and the Treasury Department. Since I am a Government official, it would seem to me that the place was reserved for me. Notwithstanding compliance with directions, I was ticketed both times. One space was just west of the Bureau of the Budget building and one space was just south of the Treasury Department on the square containing Sherman's statue.
>
> It would seem to me that the two tickets should be canceled and that I should be given some kind of identification on my car so that I may use these spaces without irritating episodes like this. Would you take this up with the Corporation Counsel.

Officials of the District of Columbia Department of Highways and Traffic have advised me this afternoon that the signs to which the U.S. attorney refers, read as follows: "Reserved"—then in the space that follows, the time is listed. For example: 7 a.m. to 4 p.m. Following the time restriction there appears in large letters "Government Officials Displaying Parking Permits."

The U.S. Attorney advises his assistant that he "should be given some kind of identification on my car so that I may use these spaces without irritating episodes like this." All Mr. Acheson has to do is request an official parking permit from the District of Columbia Department of Motor Vehicles and I am sure they would gladly issue him one. As recently as a few minutes ago, he has not requested such permit from the Department of Motor Vehicles though he violated the law 5 or 6 weeks ago.

I say for the benefit of the U.S. attorney in Washington, D.C., that his negligence, in my judgment, and his inexcusable violation of the District traffic laws, has cost the District of Columbia some money to ticket his car.

It also takes some time if that ticket is processed. Certainly the U.S. attorney for the District of Columbia should be counted upon to place law enforcement first in his own conduct.

How does Mr. Acheson, the chief law enforcement officer for the District of Columbia, believe policemen should know whether the Volkswagen belongs to him or some poacher on this reserved parking area?

Traffic Division Aid Mr. A. L. Clay deserves great credit for ticketing Mr. Acheson's car. Unless traffic aids strictly enforce the law in these areas, poachers park in spaces so that officials of the Government who are on official Government business and display proper identification—which Mr. Acheson apparently never even asked for—are unable to find a space to park their automobiles.

I have a hunch that Mr. Acheson would be one of the first to complain if he had the proper identification and could not find a space to park, knowing that spaces reserved for official Government business purposes were being used by the general public.

It is not easy for me to criticize the U.S. attorney.

There are some others in the Department of Justice who had better learn what it means to have uniform application of law enforcement, irrespective of the status of the individual violator.

Mr. President, I have on my desk some other traffic tickets of other officials of the Government that I only wish generally to call attention to tonight. I wish to say that the senior Senator from Oregon, chairman of the Subcommittee of the District of Columbia Committee that has jurisdiction over the Police Department in the District of Columbia, intends to do everything he can, so long as he is in the Senate to back up the police in exercising their legitimate rights and duties.

Law enforcement officers such as Mr. Acheson, the U.S. Attorney for the District of Columbia, believe it or not, in my judgment cannot square their conduct in this matter with their responsibility to back up uniformity of practice in the administration of law enforcement. But Mr. Acheson is not alone.

I have in my hand a ticket given to another official who parked illegally less than 40 feet from the intersection. He gave as his reason that he was in the process of serving some papers.

There is no justification for process servers who constantly come forward with the alibi that their duties give them the right to park illegally. Most of them probably could benefit from some foot exercise anyway. In paper process serving there is no reason why a law enforcement officer or a Government employee cannot walk a half block, a block, or two or three blocks, rather than to take the law into his own hands and park illegally.

I do not have much confidence in a Government employee who is willing to violate the law in that respect and then give the argument that it is a de minimis matter. Our Government employees should be particularly circumspect in seeing to it that they live within the letter of the law.

I have in my hand another ticket issued to a Government employee who parked in a bus stop zone. He gave an interesting alibi. He was making an inspection on premises at 3103 M Street, NW., Permit V–130570, at approximately 12 p.m.

I say to him, "Why did you not walk? Why did you not find a parking place and walk back to where you were making the inspection?"

There is no justification for parking illegally. I say most respectfully that there is a tendency on the part of some Government employees falsely to use the status of their position.

I say to the Corporation Counsel that the fixing of those two tickets cannot be justified. I say to him, "You cannot justify fixing a single one of the tickets that I am about to outline tonight." These Government employees should be told that it was their duty to live within the law and to use their feet to take them where they have to go.

I have in my hand another traffic ticket issued to an official of the U.S. Marshal's office. I shall have more to suggest to the Attorney General of the United States—after the District of Columbia Committee meeting tomorrow when I shall discuss some of his offerings in regard to the question of criminal law legislation. I say tonight only that I think Judge Bazelon, in the exchange of correspondence between himself and the Attorney General of the United States, put the Attorney General of the United States to shame in regard to the position that he has taken concerning the question of protecting the rights of free men from having their civil liberties jeopardized, as the Attorney General of the United States apparently would be willing to have them jeopardized.

I am proud of the fact that we have sitting on the court a great judge such as Judge Bazelon, who made the arguments that he made in opposition to the position that the Attorney General has taken in this field.

Another ticket shows that a member of the staff of the U.S. Marshal's office parked on private property in violation of our laws. His alibi is "On official

business for U.S. Marshal's office," serving process at 3117 14th Street, NW.

I say to him, "Why did you not walk the necessary half block or two rather than violate the law? There was no rush that justified this illegal course of conduct on your part."

I say to Mr. King, of the corporation counsel's office, "You cannot justify the fix."

Mr. President, I hold in my hand another traffic ticket given to a U.S. Government employee who says that he was in the process of performing Government business. He parked in a space reserved for official Government vehicles. He had no permit. He is in the same class, as far as I am concerned, with Mr. David Acheson. He ought to obtain a permit or park legally.

Here is another case, involving one of our women Government employees. If it is a case of high heels making it difficult for her to walk, she ought to carry some moccasins in her car and walk rather than violate the law.

The ticket states, "On official business for Department of Welfare. No parking available." Of course, she parked. She did not park where she should have parked legally, so she parked illegally.

I say to the corporation counsel, "You cannot justify fixing her ticket."

Here is another traffic ticket. This ticket involves a Government employee in the Internal Revenue Service. Was it so important for a member of the Internal Revenue Service to go out to ask some questions in regard to a tax violation that he finds it necessary to park in a zone which, the ticket states, was labeled "No Parking"?

He should walk whatever distance it is necessary from a place where he could legally park his car to the spot of business where he had to carry on his official duties.

Here is another traffic ticket from the U.S. Marshal's office.

I say to the Attorney General again, "You had better have a little heart-to-heart talk with the U.S. Marshal and his staff." His assistant, too, was parking in a "no parking" area. It is inexcusable. He should have walked the distance, after legally parking his car, to the place where he had to transact business.

Mr. President, here is another one: "Parked in bus zone." This person is another member of the Internal Revenue Service.

I say to the Corporation Counsel: "You cannot justify the fix. The people of the District of Columbia should have had the fine collected. If these people are to violate the law, there should be a uniform application of the collection of fines."

Here is another one. It was a traffic ticket given to a woman; I do not know whether she is young or old. She was parked in a "no parking" zone. Apparently she works for the court of general sessions. She claims that she was delivering some law books in behalf of the court. I know what the judge should say to her. The judge should tell her to obey the law or get a new job.

I hope it will not be necessary for me from time to time to speak about the failure of Government employees in the District of Columbia to obey the traffic laws with regard to parking and other restrictions. I hope it will not be necessary for me to point out from time to time to the assistant corporation counsel that, in my judgment, these "fixes" are shockingly unjustifiable.

LEGISLATIVE APPORTIONMENT

Mr. PELL. Mr. President, I found the Dirksen amendment a difficult one, particularly for me as a Senator from a small State.

The logic of the arguments made against the Dirksen amendment could surely be extended to the thought that what is right for the States is right for the Federal Government, what is food for the goose is food for the gander. And under this thought, should my vote be counted any less than that of my colleagues from larger States?

Moreover, mine is a State where the community bonds and histories are far stronger than the State ones. My State of Rhode Island started out when four independent communities—Providence, Newport, Portsmouth, and Warwick—gathered themselves together. It was only 27 years later that they secured a royal charter for their common good. And even the name we took then indicated this recognition of the communities, because we became the State of Rhode Island and Providence Plantations. Rhode Island itself was then what today is called Aquidneck Island, and the rest of the State constituted the Providence Plantations.

As a matter of our minority rights, the right of the parity of my State's vote in the Senate is guaranteed by article 5 of the Constitution, which provides that "no State, without its consent, shall be deprived of its equal suffrage in the Senate." In addition, while some of our town records and histories predate our State's records and history, we have since, in the last 300 years, acquired a State consciousness that prevails over that of any of our individual communities.

An argument is made against the Dirksen amendment on the grounds that it is designed to get around the Supreme Court. Of course it is—and there is nothing wrong with amending the Constitution if the general will of our people disagrees with the Supreme Court. Provision for doing this is a part of our very system of government. It is a recognition that while recognizing the three coordinate branches of Government, we also recognize that the legislative branch, representing the people, is primus inter pares.

On balance, however, and in the light of all the arguments that have been advanced in this Chamber, in my view the harm resulting from uneven or disproportionate representation outweighs the strength of the counter arguments. Because of this and because of the protection given to the small States by article 5 of the Constitution preventing erosion of the voting powers of Senators from small States, I opposed the Dirksen amendment as offered.

Finally, speaking of what is food for the goose is food for the gander, I have always believed that cloture is a perfectly proper weapon to bring us to vote—and not to procrastinate, filibuster, or delay. For this reason, I found myself surprised at the way those who have inveighed against the filibuster in the past have now threatened its use. My own view is that the right of unlimited debate is to alert the people throughout our country to what we consider a menace, but not to prevent a vote being taken. For this reason, I can see myself voting for cloture although voting against the issue involved—and would hope other Senators might feel the same way.

ADJOURNMENT

Mr. PELL. Mr. President, in accordance with the previous order, I move that the Senate adjourn until noon tomorrow.

The motion was agreed to; and (at 7 o'clock and 15 minutes p.m.) the Senate adjourned, under the order previously entered, until tomorrow, Thursday, August 5, 1965, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

WEDNESDAY, AUGUST 4, 1965

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., prefaced his prayer with these words of Scripture:

Ephesians 3: 20: *Now unto Him who is able to do exceeding abundantly above all that we ask or think, according to the power that worketh in us.*

God of grace and goodness, at this noonday, we raise our voices unto Thee in the adoration of praise and gladness.

May we now come to Thee in the fellowship of prayer seeking together those blessings which none can ever find and enjoy alone and beseeching Thee to bestow upon us some new unveiling of Thy eternal truth.

Grant that we may find Thee and grasp Thy heart and hand in confidence and joy, and rise above all doubt and misgiving into a trustful faith in our Lord and Saviour who walked this human way and ascended in victory.

Evoke in us a greater faith, hope, and love and may we be His partners in ministering to the poor and needy in their struggles.

In Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and a joint resolution of the House of the following title:

H.R. 8111. An act to establish the Herbert Hoover National Historical Site in the State of Iowa; and

H.J. Res. 454. Joint resolution to provide for the development of Ellis Island as a part