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 been impressed with its dedication to the science of water use, control and conservation.

Our good friend the minority whip, Leslie Arens, 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. Arens' letter.

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. Metcalfe).

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 in the 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, 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 the bewilderment of 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 needs of supremely talent 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."

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 JOURNAL

Mr. Mansfield. Mr. President, would 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.

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.

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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 pro tempore. The Senator from New York. 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 "sleepier," 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 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 theDirksen 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 beyond any 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 considered, provided that the apportionment of the Senate 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 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:

-Bears a reasonable relationship to the needs of the State.

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, and it will come true 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, 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 it might be necessary to apportion on a basis other than strictly population. Let me cite one 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 Chicago, and it is obvious that these urban 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 is dispersed over a 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.

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 the State a great deal of work in determining 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 3 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, 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.
within the concept of a reasonable relationship to the needs of the State.

In referring to judicial review, I believe one would not have to go far to see the Senate 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 within itself or its open-ended test of a Proposition to challenge in the courts on the ground that an amendment does, to geography or political subdivision or population—proposed it for 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 proposal of some other standard had been used.

I point out also that in an early draft of the proposal of the minority leader, Senator Dirksen, 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 between the two amendments, is the standard in my proposal, that a plan of apportionment is submitted to the courts with no trouble, just 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 searches and seizures.

I provide specifically for a statewide referendum, an entire statutory language to make it clear that it is boilerplate language to make it clear that it is not included language to make it clear that it is boilerplate language to make it clear that this constitutional amendment.

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 assure 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 not important to me, because, as we lawyers say, it is bolleree 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 any official text of this 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 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 bolleree 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 any official text of this amendment. In my amendment I have stated it in just so many words.

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. As the Senator for decades a part of their population—Negroes—have been inhibited from voting, by outright discrimination, discriminatory application of literacy and other tests, [Mr. Dirksen] may apportion one house on 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 assure that there shall be no inhibition in any way on account of race, color, or creed, of the constitutional rights of the people.

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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 people do not so choose. The alternative is not 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 objections that 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 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 express 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 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 legislature other than on a basis of strict population is not 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 "or" and "and" 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 "perhaps." 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 in the background on substantial equality.

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 the Constitution of the United States, when ratified by three-fourths of 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 electorare, 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 which, in every case, for the people to apportion one house of a legislature other than on a basis of strict 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 exists among them 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 right, that as opponents, all they need to do is to demonstrate that another method is better before 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 which command support even approaching the two-thirds mark just fades away after a rollcall. Majority will remain intact for a long time and has a way of prevailing ultimately.

Secondly, the tactic of delay is not going to work. Far too many people are too deeply concerned about this issue to be deflected from trying to achieve their objective. For example, 30 of the 50 State legislatures have initiated 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 do not have the interest, or the initiative, or the ability to do it.

In view of the fact that in these proceedings we 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 30 State legislatures determined that action should be taken for this 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 see that the precedent 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.

Mr. President, his imagination can limit his speculation about the wide variety of controversial subject matter which might appeal to preserve a long exercised right, that as opponents, all they need to do is to demonstrate that another method is better before the Senate floor and their problems and our problems will quickly fade away.
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 system of representation 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?

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

Mr. SCOTT. I propose to have the statement ordered to be printed in the Record, as follows:

I want to how to the Senator whose name is most popularly identified with the proposition of a constitutional convention. I understand you and whose broad understanding of the problem has caused him to think through, as few of us would be able to do, 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 problems, Mr. Dirksen. It seems to me that the Senator 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 the electorate to review.

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

(6) Deliberate avoidance of all language which might in any way take force and effect of any existing constitutional provision or law dealing with guarantees of equal rights or representation 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 Subcommission on Constitutional Amendments in 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 they represent. For example, the two senators from Vermont (along with the two senators from New Hampshire) make up a unit out of which they are to draw a single vote. For the Senators (and the people they represent) this single vote is a manifestation of the idea that the power potentials of equality are more so engrossed in the politics and the power potentials of this issue that they are beginning to consider the application of the idea."

[Senator Thompson, Prospects for a Constitutional Convention, July 22, 1965.]

The slogan "one man, one vote," which this resolution's opponents use with such seeming innocence is the first prerequisite. Those who oppose the Dirksen amendment seem to see political power centralized into the hands of big city bosses, who in combination can manipulate the majorities in 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 provincials under the Federal Establishment which had unlimited funds to supplant the machine's beneficent treasury. This, it seems, meant the twilight of the bosses, and the machine's victory. 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 legislators, by Democratic and Republican bosses, control the State capitals. Through control of the legislatures, the urban legislative stooges will next redrew the congressional districts 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 acquit ourselves of the challenge that has been so engrossed in the politics and the power potentials of this issue that they are beginning to consider the application of the idea."

[Senator Thompson, Prospects for a Constitutional Convention, July 22, 1965.]

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 have been in session for 30 years, and the vote base of the total number of votes to be considered would represent something over 178,500,000. Because of its population, New York would obtain six, California would obtain six, Pennsylvania would be given six, California would be given nine, Illinois six, Texas five, and New Jersey six. If the State of Wyoming and Montana would 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 Idaho. It is clear, then, that only 10 States, with 93 votes—a clear majority—would have been mandated.

"It may help to know that in working out the theories of the self-government of the United States, during 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 vote for. The Supreme Court of the United States has found—and it was pursuing its responsibility—that the writer of the Constitution and the framers 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. This is the point regarding the United States Senate because it was placed in article I of the Constitution and it was intended 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 the United States Supreme Court to be all powerful in this area.

The basis of the decision 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 this is a major problem. It means nothing unless it is their will. Such conduct adds strength to the argument that they have the top dog 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. Arkansas is one of the States where minorities secure their representation by a one-man, one-vote system. The Senates favor this resolution, just as more than three-fourths of the States favor this resolution under the Constitution as it now is.

"The 1964 Apportionment Acts were tested both in the Federal and State courts. [See Drew et al. v. Berenson, civil actions Nos. 727, 731, and 736, United States 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 require a one-man, one-vote apportionment in Pennsylvania for 90 years.

"The constitution of 1776 provided for representation by cities and counties and the constitution of 1790 was amended by a majority vote of the people."

"The constitutional requirements contained in the Pennsylvania constitution were approved by a majority vote 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 what exists or at least no urgency for major change; the last such rejection was in 1965."

"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, ‘* * * which completely disregards and discards history, tradition, geography, local interests, and local problems, differences in dialects and languages in various parts of the country, ideas, and ideals in each State and also in many parts of each State; which will almost inevitably result in an unequal and unfair and ineffective representation in legislative halls of their principles, customs, traditions, the 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 their ancestors for centuries 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 precede free government should not be less so when applied to the States."

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

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

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

"Mr. JAVITIS. Mr. President, I yield myself 15 minutes."

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

"Mr. JAVITIS. 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. This Senator from Pennsylvania 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 would 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 opinions were not acceptable and I fight for it when they are acceptable."

"But I recognize that what we are dealing with today in the Pennsylvania Senate is not simply a willful attempt to overrule the Supreme Court."

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"But I recognize that what we are dealing with today in the Pennsylvania Senate 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 where 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 at all, unless the State legislatures have decided—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 Congress to do it, and not have 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 size, and the tension, which it does assume. 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 debate which confronts us. That is all the more reason why we should, with judiciousness, with intelligence, and with a deep analysis, and in an objective and passionate 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 buttedress 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? I should say yes. To adopt a Federal analogy, the composition of the United States Senate, and who face particular State problems, with heavy concentrations of metropolitan populations, or the physical problems of transportation, and so on, 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 believe that 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 up in our faces. That is the most unlawful 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, while it speaks of the 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 wise and dangerous to deny the States.

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 basic decision in Reynolds against Sims 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 if in the spirit of 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 seems to me that that is an issue which I should like to consider an amendment, that is the 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 does not only the dissent, 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. I am, the PRESIDING OFFICER. The 15 minutes which the Senator yielded to himself have expired.

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

Mr. 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 it meant by "separately and separately".

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 would 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.

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, population density, history, economic development, and many other factors. What is a rational plan—

It seems to me that that is an issue which I should like to consider. The Senate from page 31 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. I am, the PRESIDING OFFICER. The 15 minutes which the Senator yielded to himself have expired.

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drive us completely in the other direction.

I am against the tyrannies of minori-
ties 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. I think it is a logical amend­
ment 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.

I deeply believe—and this is where I
differ with the opponents both of my
amendment and of the Javits amend­
ment—that it is a great mistake of the
liberals—and that does not mean that
I derogate from their liberalism; I re­
spect 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 de­
vise.

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

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

The Javits amendment, like the Dirks­
en amendment, is fundamentally based
on the assumption that there was some­thing
wrong or incomplete in the deci­sion 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
citizens. The Court was right in saying
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 under­
represented 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
some cases as few as 5 percent of the
evoters who represented districts with
more than one member 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
among 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
so 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 sys­
tem 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. 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 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
suffrage, that each man and woman is to
elect each member. The Court correctly said
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
decide whether it should depart sub­stantially from the principle of mathematical
equality provided it is not substantial.

The Court, in its good judgment, can
still do the job that needs to be done
without providing some escape valve. That is what I propose
to do, with the utmost safeguards which
human endeavor and ingenuity can de­
vise.

Mr. President, I yield 2 additional minutes.

Mr. DOUGLAS. Mr. President, the pro­posed 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 Dirks­en amendment, 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 tub of polluted meat, which, if
eaten, would be dangerous to the health of
the multitude. I believe that is what
the Dirksen amendment is.

Mr. President, from Illinois, Senator
TYDINGS, the distinguished senior
Senator from Illinois, 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 this 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.

Mr. TYDINGS. Mr. President, I urge
that we adopt 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, there, 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 lati­
tude 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 strict equality, 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 restating the law laid down in the case of Reynolds against Sims, then I submit that this amendment is not necessary. I want 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.

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 the basis for an objectionable amendment or an amendment which might revert it to the present Dirksen substitute. This, of course, would be entirely undesirable. If we were to amend the Constitution to reflect the language of some of the junior 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. It is too early to tell if the Supreme Court's statement, admitted in dicta, that the decisions of some of the lower courts are to be the law of the land, I hope and expect the general attitude of the case law will 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. The decisions 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 statement, admitted in dicta, that 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 such a hasty, precipitous, and inflexible manner. Let us amend 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 traditional procedure 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, which has been tackled on to a substitute for a substitute for the American Legion baseball joint resolution. This has no way to amend the Constitution of the United States.

I thank the Senator.

Mr. DOUGLAS. Mr. President, how much time is remaining under the control of the senior Senator from New York?

MR. DOUGLAS. How much time remains under the control of the senior Senator from New York?
There was considerable debate on the Dirksen concept last year, in which, it will be remembered, the whole effort was to strip 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.

Above the amendment, 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 and 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.

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 other body; that it may go to conference, and perhaps a result will occur which no one desires. It is difficult to think of one after we have been fortunate in the comparison of a situation which might one day generate sufficiently to create a constitutional crisis. Let it be remembered that the constitutional crisis. Let it be remembered that the Constitution and a succession of statutes, which I have spread on the record, have intervened since it was proposed, and perhaps a result will occur which no one desires.

The CONGRESSIONAL RECORD.

Second. I would like to sum up exactly what I think I have not only preserved, but broadened and ennobled the jurisdiction of the other body; that it may go to conference, and perhaps a result will occur which no one desires.

The CONGRESSIONAL RECORD.

Finally, realistically and practically, I do not put beyond the realm of possibility within my own State, or any other State, 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 at this point. The CONGRESSIONAL RECORD.

The time of the Senator has expired. Mr. JAVITS. I yield myself 2 additional minutes.

The PRESIDING OFFICER. 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. A general election is undertaken every year, 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. 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 is intolerable. 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. I know that the Constitution of New York understands that what I am opposed to this, 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 think that I am entitled to express the 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 de-
mean the status or authority of the
Supreme Court
mean, however, that, insofar as I am
concerned, I wish to get back to the
have no State-Federal system, as we
people, because I believe the
understand it.
my colleague from Illinois.
Senator
Senator
legislatures. Nevertheless, no thinking per­
minutes.
Senator
bearing impatience with the Federal system
and its political processes will believe that
of these cases, however desirable it may be
thought in itself, will have been achieved at
anyone.
the cost of a radical alteration in the re­
phasis is put on judicial interpretation,
people, ordain this Constitution of the
admissible for purposes of legal in­
saying,
Jefferson
PRESIDING OFFICER. The
President, how much
The PRESIDING OFFICER. The
Senator from Illinois is recognized for 3
minutes.
Mr. DIRKSEN. I continue to read:
What must follow from them may even­
ly of the legislatures. Nevertheless, no thinking per­
can full to recognize that the aftermath of
these cases, however desirable it may be
behave what were begun by being achieved at
the cost of a radical alteration in the re­
relationship between the States and the Fed­
eral Government, more particularly the Fed­
eral judiciary. Only one who has an over­
bearing impatience with the Federal system and its political processes will believe that
that cost was too high or was inevitable.
I cannot 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 in­
terpretation, it still means to me exactly
what it says.
It is in full accord with what Jefferson
wrote in the declaration of Independ­
ence. It is because of it, as I conceiv of a
Federal-State system that I do not wish to
see it destroyed; and when overem­
phasis 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 circum­
cstances, 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, there­
fore, that an overwhelming vote it
will be voted down.
Mr. JAVITS. Mr. President, how much
time of the remaining?
Mr. DOUGLAS. How much time re­
mains?
The PRESIDING OFFICER. Eight
minutes remain under the control of the
Senator from Illinois. Fifteen minutes
remain for the control of the Senator
from New York.
Mr. JAVITS. I yield myself 3 minutes.
Mr. DOUGLAS. I hope that we may pro­
cceed to a vote on the amendment as
quickly as possible.
I cannot appar that 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
modifications. The modifications have
been sought in an endeavor, insofar as
the Senator could, to meet the views of
people like myself as to necessary proce­
dural safeguards, such as the repeated
submission to the people of an alterna­
tive safeguard and the limitation of permiss­
ble factors to geography or political subdivi­
sions only along with population, not in lieu of it.
He has endeavored in every way to im­
prove his amendment. It should be sub­
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. Dir克斯]
by saying that my amendment is
merely sprinkling formaldehyde over the
Dirksen amendment. I do not believe
that is so.
Old 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 Su­
preme Court had said that legislative ap­
portionment 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 jus­
tified on the ground that the people had
no other way of getting out of the clutch
of malapportionment. My proposal ac­
cepted the same decision. 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 addi­
tional minutes.
My proposal accepts the Court's jurisdic­
tion, but it does so by establishing a
method by which flexibility can be af­
darded within that jurisdiction. That is
why I read into the Racoport portions of
the majority opinion and the dissenting
opinion of Mr. Justice Stewart, to dem­
strate exactly what I was doing. My
amendment accepts the Court's jurisdic­
tion and uses the Court as an arbiter in
order to arrive at a decision. It is the
one-vote system which the Court's deci­
sion has put into effect.
There is a deep difference in principle,
I say to both the proponents of the
amendment accepts the
minority proposal of the one-vote sys­
tem by which
the majority opinion and the dissenting
opinion of Mr. Justice Stewart, to dem­
strate exactly what I was doing. My
amendment accepts the Court's jurisdic­
tion and uses the Court as an arbiter in
order to arrive at a decision. It is the
one-vote system which the Court's deci­
sion has put into effect.
There is a deep difference in principle,
I say to both the proponents of the
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. MILLER. Mr. President, I should like a clarification of the ruling I heard, that from the Desk a motion of a separate district?

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. DOUGLAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Does the unanimous consent request provide that an amendment there will be available time which I shall control in opposition to the amendment 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.

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:

"The 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, each 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 this 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."
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.

The following 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 9 of the Constitution of the State of Iowa. Those sections of the Iowa constitution:

Webster_______________________________ 2
Webb------------------ -----------
Marshall _____________ ------------

Des Moines--- -- ------ ------------

Iowa. As a result of the election of last year, there are 11 elected representatives, all running at large.

I believe 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 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.

Mr. MILLER. Mr. President, it is recognized that certain sections of Des Moines, which is the capital city of Iowa, is an illustrious lawyer in his own State and is aware of this need to give the proposed amendment all the care that is necessary.

Mr. MILLER. Mr. President, it is recognized that certain sections of Des Moines, which is the capital city of Iowa, 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 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.

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

Mr. MILLER. I yield.

Mr. CASE. Mr. President, I feel strongly that the Senate is endeavoring to get at a very important and useful point. If his amendment were limited to his first sentence, 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 think 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 reluctant 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 its plan." I believe that we must have a second part to the amendment if we want to be fair.

Mr. CAS Cas. Mr. President, 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 legislature because this is the key to the protection of race, religious, and political minorities. However, if they do not want to do that, they can proceed with their own plans.

The PRESIDING OFFICER (Mr. BAYH 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 an 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 this amendment was introduced 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 has been discussed 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 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 was introduced 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 months ago. I cannot accept the amendment. The Senator from New Jersey has helped by pointing out that if we were to design the Court's jurisdiction, or, with regard to the Court's jurisdiction, or, with regard to the jurisdiction of the people, giving some degree of flexibility to this process in respect to the House, we could not adopt another section which would restrict the flexibility which I seek to give.

The proposal seems to be contradictory to our direction to the Senate. As I leave the reasonableness of appomtionment to the Court, I should leave this matter to the Court as well.

In the case to which my distinguished colleague has referred, Benton 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 do not believe that this is a very clear act. I do not believe that this is a monstrosity. I believe 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 Iowa.

The amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Iowa.

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. Moss] is absent on official business.

I also announce that the Senator from Minnesota [Mr. McGovern] is necessarily absent.
The VICE PRESIDENT. The Senator from Texas is recognized for 10 minutes.

Mr. TOWER. Mr. President, I wish to add a word to those of my colleagues who have already spoken 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 this 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 arises out of 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 are not the sole determinants of legislative representation in the States, there is a clear and inescapable loss to the American system of government.

If, for one, had always thought that checks and balances were an indispensable part of what 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 of our political system 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 jurisdic-

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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 don't believe, for a moment, 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. You don't have to believe that to believe that your good 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 Simpson, I think we have to ask whether all Illinois are that 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 it not be bungled 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 generate the taxes to pay for it.

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 led to the denial of minority representation. Credited 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 illusion 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 shows that the majority party is the one that rules in a divided 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. The language they have chosen in many instances 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 he was not afraid of the aggregates of power that the mass of the people could achieve through elected representation. If the people settle this fundamental question for themselves in an open and clear-cut referendum:

Adopt the 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 must be predominant. The remedy for this * * * is to divide the legislature into different branches; and to render the one of them a sort of check upon the other, 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 follow 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 Raccoon there may be published the following statement of August 1, 1965, entitled "We Vote for Dirksen."

There being no objection, the editorial was ordered to be printed in the Raccoon, 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 showdown vote this week. Senator Dirksen and Senator Mansfield, the majority leader, have agreed to seek unanimous consent tomorrow for a showdown vote on the amendment. If the opponents think they can block the two-thirds Senate vote required for passage of the Dirksen proposal, they should think again with the unanimous-consent appeal. If not, if they do not believe they have the needed negative votes, then a prolonged liberal filibuster is 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 determine the apportionment of seats in the 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 has one condition for adoption. First, assuming ratification of the amendment, a State legislature wishing to act under it would be required to submit two plans to voters for approval. One plan would have to embody the one-man, one-vote concept. The other would authorize apportionment of one branch of the legislature by any other method that the people of the State might find 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 a new 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 State to determine the best form of government, and to revise their choice if 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. I hope the Dirksen amendment will be called up this week, and that the necessary two-thirds vote to approve it will be forthcoming.

Mr. DINKSEN. 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 said the other day, above the politics of the moment. 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 been an open season on the one-man, one-vote theory 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, who feared the constitutionality. I, for one, did not share that view, but there is room here for honest differences.
The referendum clause of the Dirksen amendment represents an imaginative solution to the problem of assuring periodic reevaluation of legislative apportionment. Moreover, the mechanism itself 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 have once rejected an amendment, and on the other, they are willing to be subjected alone 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 disdain for the 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 how anyone could be against it.

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 the 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, if this plan, 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 wrestling against a cluster of mutually, distortion, and oversimplification poured out by some members of the press. We are accused of trying to save “rotten boroughs” and “districts for one” at “the expense of the people.”

We who support the Dirksen amendment are for the people, and let us make no mistake about it. The proposal that we are discussing, like its namesake, is both reasonable and fair.
support this amendment are to be foreclosed, 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 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 we endorse, yet so skillfully hide, is the haunting specter of unrestrained against our will and the merits of our

ought to accept the responsibility for

They can

minority representation.

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which these critics endorse, yet so skillfully

at all if we go from one extreme to the

other. That does not solve the problems

into which we have been plunged.

shall rise to it. Let us pass the Dirksen

a responsibility to perform and I hope we

ORD

noted, tigers get hungry.

as follows:

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 with ease and 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 current mess 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 while the turmoil and confusion persists. We have a responsibility to perform and I hope we shall rise to it. Let us pass the Dirkson amendment.

Mr. President, I ask unanimous con­sent that a letter which I addressed to the Miami Herald be printed in the Rec­cord, at my expense.

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


Mr. JOHN McMULLAN,
Knight Newspapers, Inc.,
Washington Bureau,
1288 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 favor legislation that would allow States with bicameral legisla­tures to apportion 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 look to geographically such factors as geography, political subdivisions within a State, and well-defined economic regions should be considered in arriving at the make­up of the various legislatures.

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
Senators Anderson in particular is well read as to the struggle that marked the principle of area representation in the U.S. Senate. 

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 pool with no distinction and no localization, as the Supreme Court decision implies, or whether in our highest deliberative body should be notice 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 Dinken amendment, we believe, will restore balance to the legislative process of our State. Without it we hesitate to guess the future autonomy of rural areas as the apportionment of the House restored the imbalance that formerly existed in the State legislature. It is not 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 Dinken amendment would uphold this sort of arrangement, if approved by a vote of the people. We cannot imagine a democratic way to solving this problem.

No such historical basis or necessity for compromise brought into being the States. Counties—unlike the original States—do not have a valid reason for continuing an arrangement which says a citizen in the election of representatives is not the prerogative of any majority to reduce the power in the Senate where counties uniktig with equal weight to that of another county.

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 Dinken 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 30, 1965:

THE DINKEN AMENDMENT

The Portales News-Tribune editorial on the Dinken 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 the Senate are apportioned solely by area. In effect, they argue: "What's sauce for the goose is sauce for the gander."

The Senate, as used to rationalize mal-apportionment in State legislatures, is not a valid reason for continuing minority-dominated legislatures. The separate States at the constitutional convention in Philadelphia were virtually sovereign. In order to gain the consent of those formally and legally sovereign States of a National Government, it was necessary to achieve a compromise between the more populated and the less populated States. The Federal system in this country, and the 139 counties proposed in both the Senate for every State and a House of Representatives based on population.

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

Dear Governor King: I read your recent editorial on the Dinken 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 the Senate are apportioned solely by area. In effect, they argue: "What's sauce for the goose is sauce for the gander."

The Senate, as used to rationalize mal-apportionment in State legislatures, is not a valid reason for continuing minority-dominated legislatures. The separate States at the constitutional convention in Philadelphia were virtually sovereign. In order to gain the consent of those formally and legally sovereign States of a National Government, it was necessary to achieve a compromise between the more populated and the less populated States.

Mr. Dinken, on the other hand, 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.

Mr. ANDERSON in particular is well read as to the struggle that marked the principle of area representation in the U.S. Senate. 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 pool with no distinction and no localization, as the Supreme Court decision implies, or whether in our highest deliberative body should be notice 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 Dinken amendment, we believe, will restore balance to the legislative process of our State. Without it we hesitate to guess the future autonomy of rural areas as the apportionment of the House restored the imbalance that formerly existed in the State legislature. It is not 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 Dinken amendment would uphold this sort of arrangement, if approved by a vote of the people. We cannot imagine a democratic way to solving this problem.

While it may be possible to arrive at an apportionment of a State senate on a historical or geographical 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 Dinken amendment may be attractive on the surface in providing for periodic re-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 Dinken do point up the real heart of the case against the Dinken amendment:

"The right of a citizen to have his vote count with equal weight to that of another person is an unalienable right in our Republic. It is not the prerogative of any majority to reduce the power in the Senate where counties uniktig with equal weight to that of another county."

No citizen of the United States may sell himself nor any other person to bondage. No such historical basis or necessity for compromise brought into being the States. Counties—unlike the original States—do not have a valid reason for continuing an arrangement which says a citizen in the election of representatives is not the prerogative of any majority to reduce the power in the Senate where counties uniktig with equal weight to that of another county."

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"The right of a citizen to have his vote count with equal weight to that of another person is an unalienable right in our Republic. It is not the prerogative of any majority to reduce the power in the Senate where counties uniktig with equal weight to that of another county."

No citizen of the United States may sell himself nor any other person to bondage.
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 cope with the complexities of a rapidly changing environment and economy. If this issue is resolved with reason, all of the 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 which I think we should take account of 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 in the city council. I very much 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 Dirksen amendment, I feel, does not reflect the attitude or the needs of the urban population of my State.

THE PRESIDING OFFICER. The Senator from Wisconsin is recognized.

MRS. 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 demands.

In almost 2 centuries the force of our democratic convictions has led men to fight continually for the expansion of our franchise, and the problems of the cities, and their integral importance, are the problems of the counties, and the problems of the cities and the counties are the problems of the States.

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 stand against the problem of State legislative 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 of the State legislatures, Mr. Kennedy 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. Because the people of Tennessee, 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 members of the legislature were elected by 22⅔ percent, 19⅞ percent, 17 percent, 12⅔ percent, and 9⅛ 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, in fact, ceased to provide progressive legislation for the people of the State. The Federal Government had turned to the people of the States, and had cited the 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 most closely reflected the discussion which had gone

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 realized that attacks on this problem were now trying to bar a just apportionment of one house. But that desire runs contrary to what every one of us, and every one of the States have already reapportioned both Houses to meet the one-man, one-vote rule 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 substantially to the recommendation of a committee. That is the great flaw in weighted voting."

The problem of the urban and suburban areas has come from less populous States as well as 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 Bernardo, Sandoval or San Miguel counties. I am not talking merely about Bernalillo County—this applies to Dona Ana, Hidalgo, Mexico, and several other counties as well. I do not believe that the legislator from a city, from a suburb, farm or ranch has that same integrity as the legislator from the farm or ranch. But, the large population centers face serious problems which are growing worse times the voting strength on the floor of an assembly. It has a number of defects.

The problem of the urban and suburban negligence of the reapportionment problem is that urban governments have bypassed the States and made direct cooperative arrangements with the Federal Government in such fields as housing, and urban development, airports, defense, and educational services. It is 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 those is that the legislators 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 services. This fact has been an increase in the bureaucracy of a growing Federal Government.

The fact that 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 and substantial cooperative arrangements with the Federal Government in such fields as housing and urban development, airports, defense and educational services. It is 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."

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 difference is that 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 greater 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.
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 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 plan was, for the first time, a unit system of electing its statewide officers, 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—which in the United States again appeared as a friend of the Court, and the stage for the critical case which had been argued in 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 the cases in which the Supreme Court was willing to go to force open primary elections in accordance with the principles and procedures which were established in Baker and Gray against Sanders.

Mr. President, I ask unanimous consent to have printed at this point in the Record the record of 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 need 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 accomplishments of the legislature were: enactment of a fair housing act, extending the right of minority groups to own 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 apportioning legislation enacted this April 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 73rd legislature—the first elected on a one-man, one-vote basis in both houses—recently brought to a close the most productive session in Michigan history.

Before reapportionment, a bill providing unemployment insurance of $85 was killed by senators representing 2.6 million people despite support for the bill by senators representing 1.6 million persons. A broad new 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 benefited 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 race, was enacted. "The increased emphasis 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 most 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 duplication of inspection programs.
3. A bill which created a bean commission and strengthened the potato and other commodity commissions to help commodity groups do a better job by 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, fertilizers, and animal 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 legislature which deserves notice. The reapportioned Michigan Legislature took some first steps toward making itself more efficient. Research, legal, and other staff services to the individual legislator were appropriated to alleviate the previously cramped working conditions; and the capital was expanded.

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

"For the first time, we truly have a committee system in Michigan. Committees are no longer functioning as rubberstamp bill-passing groups; they have learned the paramount importance of scrutinizing and amending bills. There have been more committee meetings so far this year than at any time.
during the past 30 years. And the committees have heard 10 times as many witnesses as had ever appeared before."

These structural reforms were no accident. As Mr. KENNEDY 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 reappointed 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 State has moved very rapidly to begin 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.

Imagine the Senator yield? Mr. KENNEDY of New York. Mr. President, I yield.

Mr. PROXMIRE, Mr. President, I commend the distinguished Senator from New York for his 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 on structural reform, 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 unemployment benefits by 20 percent, and extending coverage to an additional 60,000 employees, was killed by senators representing 3.5 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 plan.

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 long ago.

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 an important implication 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? Well, there is such a thing as 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 for reapportionment. 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 underrepresented 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 their vote. Will we stand by and see 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 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 committing very seriously the methods by which they become registered themselves— to find ways of keeping Negroes from gaining any political voice. Is it possible 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 minorities whenever the courts identify pieces of progressive legislation. This discrimination against our Nation's cities is especially bad for the Negro because, as Burke Marshall testified, it "proportionately deprives Negroes of a political voice more than any other identifiable group. In 1960, 72 percent of Negro Americans lived in urban areas. There is every indication that this percentage is and will remain high. 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 City, with a virtual absence of nonwhites—primarily Negro and Puerto Rican—in its urban areas, and less than 60,000 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 rose by 250,000 during the 10-year period, as against an increase in the rural areas of nearly 20,000. In Illinois the nonwhite population, which was 4 percent of the total in 1960, has grown in the urban areas to 10 percent. It is incumbent on us to consider the implications of these figures for the Negroes in Illinois.
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 from 1950 and 1960, while those living in rural areas went down almost only perhaps more markedly: 000

ures were 27.6 percent increase against 2.5 percent; in Louisiana, over 71.3 percent in urban areas.

percent; in the Southern States, only Florida showed any increase in the rural areas, and that increase was slightly over 1 percent as against 71.3 percent in urban areas.

This marked increase of nonwhites—primarily Negro—population in the urban areas underscores the discriminatory nature of the Dirksen amendment. Negro citizens, for example, are newcomers in most urban areas and are becoming more so. Perpetuating the antilabor balance of power in the State legislatures, therefore, would jeopardize any efforts to obtain significant help at the State level in their struggle for equality of economic opportunity, better housing, and better schooling.

As Mr. 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 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. DIREKSEN. 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 those of the Founding Fathers who 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 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 seeks to belittle 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 the good and bad men, and that increase was slightly over 1 percent as against 71.3 percent in urban areas.

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 James Madison: 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 of constitutional intent and purpose might be required. The amending clause of the Constitution which we propose to utilize, article V. section 2, is perfectly adequate.

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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. We also know they have created in many States what can ineluctably be called a mess. Politics being what it is, there have been loosened 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, who said to himself, "I made certain adjustments and return it as more than nothing, 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, have in a single paragraph just do not understand the problem. The Supreme Court's decisions 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, and such empty spaces are always dangerous.

The PRESIDING OFFICER. The time of 2 additional minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, there are many able students of the subject who 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, and complex. I have been told that the Supreme Court's decision in Baker v. Carr, in Ashbury Park Press v. Woolley (93 N.J. 1, 161 A. 2d 765), the New Jersey Supreme Court concluded that the power to compel reapportionment and notified the legislature that it had better act or "not be silent..."

The New York Court of Appeals, 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 to make a new temporal plan for the regular 1965 election.

TENNESSEE

Tennessee, the offending State in Baker v. Carr, was ordered by a Federal district court to reapportion the State on the basis of its population, a decision which, even before the recent Supreme Court's dictum, buttressed the Circuit Court's action in the Reynolds case, in which a one-man, one-vote rule was held unconstitutional and the 1963 act nullified a constitutional amendment adopted in 1964.

The Tennessee legislature was put to its head in the form of a prohibition against its taking final action on any reapportionment until acceptable districts were enacted.

WASHINGTON

Both houses of the Washington Legislature were found to be malapportioned in 1962 by a Federal court which, even before the recent Supreme Court's decision in Baker v. Carr, ordered the implementation of districts for each chamber, winning approval only of its House and Senate, and ordered the implementation of districts drawn in the city of Nashville—if the legislature did not agree to table alternatives. The legislature met this May to adopt the third comprehensive reapportionment in as many years. The fruit of its labor was again nullified the non-constitutional of the judiciary.

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 new reapportionment laws and its rejection of a reapportionment act in February, the State Supreme Court consented to allow the upcoming legislative sessions to determine the basis of any reapportionment in as many years. The fruit of its labor was again nullified the non-constitutional of the judiciary.

GEORGIA

Georgia, on the other hand, has benefited from the Supreme Court's dictum. The Georgia Court of Appeals struck down the reapportionment act of 1962 on the grounds that it was not prepared at this time to accept plain English that the law was "sufficiently unconstitutional to be stricken" and its reversion on the basis of court-devised districts, a decision that has been supported in a dozen States and is now the basis of the Supreme Court's decision in Baker v. Carr.

NEW JERSEY

The New Jersey Supreme Court, in a 1960 ruling, anticipated the Federal high tribunal's decision in Baker v. Carr. In Ashbury Park Press v. Woolley (93 N.J. 1, 161 A. 2d 765), the New Jersey Supreme Court concluded that the power to compel reapportionment and notified the legislature that it had better act or "not be silent..."

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MICHIGAN

One of half a dozen States to enjoy judicial "hands off" status today, Michigan has traveled a tortured 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 special commission could not come to agreement on districts for the 1964 election. Accordingly, the State supreme court provisionally set the State legislative districts for the November election, to see what breezes would blow from Reynolds v. Sims. The Supreme Court's "hands off" gesture may now have been turned aside by the Michigan judicial opinion.
in the northwest corner of the State. This bill was approved 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 passed Resolution 14 asking for a constitutional convention on legislative apportionment. Governor Morrison, who likes resolutions, signed the bill.) On May 12, by a split vote, the Federal judges held this reapportionment act—with a population variance of only 1,576 between largest and smallest district—valid. The court true to the pattern we have seen, declined to formulate any standards of its own. It gave to the people the responsibility of 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 the language of the Baker amendment. If 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. It will in all probability be the case that 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 20,007:

"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 Senate of the United States to be the place in which 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 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 action, it is the States themselves who 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 spark 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 an opportunity which asserts 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. Biddle].

Mr. BIBBLE. I thank the distinguished minority leader.

Mr. President, I rise, I suppose, of the District of Columbia. 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 debate which has been expended on this question, I will only briefly summarize the answer, 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 the United States 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. The decision, with only one Senator voting 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 the Baker case against Carr, Reynolds against Sims, and various other reapportionment cases offered clear-cut examples of a minority exercising political control through the reapportionment device. 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 of what the Court may do in 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 preserved by reliance on the judiciary for political questions. And 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 constitutions; and 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 not exist 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 states 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 of the 14th Amendment is the controlling factor. The doctrine which seeks to subvert the 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 rest 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, and the manner in which the 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 contorted with the concept of one man, one vote. However, what principle of representation was to prevail in the other house, the one referred to the people, and they adopted a system which considered other 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 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. BLEE. Mr. President, this amendment seems to me to be responsive 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 States. It gives the Court, which has been recognized as proper considerations when establishing a representative political entity. The provision requires a periodic review of the 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 "one man, one vote" is 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 process the Court has adopted 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 philosophy. Since its inception the one-man, one-vote principle 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 one-man, one-vote principle. That is, the efficacy of a method of changing 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. House of Representatives, one which 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 reapportionment 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 deserted. New State constitutions began to allow apportionment on a basis other than population, and States where equality of representation was required disregarded the legislative districts they themselves created. 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 determination, 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 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 development of megametropolitan areas.

Unless the State legislatures are apportioned to reflect these population changes, the Federal Government is going to move into all areas of metropolitan development. We have tried to be mindful of 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 30 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 if 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 to 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 constitutional amendment, 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 I do not agree that the 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 the amendment on good government and upon personal rights and should be rejected.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that I may suggest the time to either side.

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 the interest in the expeditious 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 as possible to allow maximum 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 is not a supplementary request.

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 PRESIDENTIAL OFFICER. Is there objection to the request of the Senator from Illinois [Mr. Dirksen]? The Chair heard 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 PRESIDENTIAL 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 believe that that be not 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 law.

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, I believe that 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 senate.

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 make their own and free choice and if with that that is laid down by the Court 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 larger 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, Iowa, Kansas, 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 majority 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 majority leader of the Appropriations Committee and the chairman of the Foreign Relations Committee. Oklahoma provides the chairman of the Post Office and Civil Service Committee. Nebraska 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 concept is that it is the conservative and is obstructed against liberal legislation. This argument has intrigued me. It advances the theory that representatives of the Congress would be more conservative and are obstructers against liberal legislation. The logic that it propounds is that if the representatives of these less densely populated areas were eliminated through the exclusive application of the one-man, one-vote concept, the barriers holding back liberal and progressive legislation would be smashed down.
I come from a relatively sparsely populated State—one of the largest in area of all the States of the Union, yet it was second 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 find myself, and perhaps you, 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—call them carders—would rate each Senator on 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 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 conservatis 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 under that concept for the smallest 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 would lose both senators had a combined two-senator representation that was more conservative than liberal as rated by the ADA and the ACA.

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 on their representation, that representatives of sparsely populated areas are reactionary obstructionists.

Their contention simply does not hold water. The smaller population States are more liberal than conservative. All residents of sparsely populated areas are not reactionary obstructionists.

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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 unconstitutional from its inception. The court held that Wyoming's constitution which had been approved by the people of Wyoming at a Constitutional convention in 1900, dealing with the apportionment of seats to 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 if the State is to be 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 State Senate. It is established fact that every major social ill in this country can find its cure in some constitutional principle and that the Supreme Court shall take the lead promoting reform while other branches of the government are concerned with other things.

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 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 like Mr. Dirksen who contend that the American people should not be given a chance or a choice but rather that the Supreme Court should be the one to dictate the terms under which all elections shall be conducted. There is no question that the rearguard of the Federal courts have invaded the soil of the States in determining the reapportionment of the Wyoming State Senate.

In striking down Colorado's plan of apportionment, the Court, I believe, is exceeding its constitutional authority and nullifying the State's actions under the 14th amendment clearly discloses that the Supreme Court's decision has overridden the power that was never intended. It is invading the valid functioning of the procedures of the States, and thereby commendable and effective means to prevent damage to our Federal-State relationships. There is no time to develop that point here. I am sure it has been developed already. Merely a reading of the facts of the Colorado case, in which actions by the people were not only nullified 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. Regardless, 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 presented the facts 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 your decision, 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 support the decision of the Court. This is a Nation comprised of many elements and population groups, each having an economic, political, and social interest peculiar to their own circumstances. In a republic, can government each of these group interests be entitled to recognition in its legislative representation. Citizens in rural areas, for example, have interests different from those of urban and semiurban areas. Agriculture and the 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, can pass upon 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 the Southerners' plan of carrier 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. DRINKS] 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. DRINKS] which would permit the 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 government of this great Nation on June 15, is saddled with malapportioned and unrepresentative legislatures which are not responsive to the needs of our great urban and suburban majorities. The urgent need of those of us represented 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 town councilmen.

Many of our States violated their own constitutions by failing to periodically reevaluate their apportionment. One State made no attempt to reapportion at all for a period of years following the Supreme Court decision. Another had not reapportioned since 1901.

There is another aspect which must be brought forcefully to the attention of

In conclusion, the Senate will not be doing the American people a disservice if it adopts this amendment to the Constitution. As the distinguished Chairman of the Committee on Government Operations said, this measure is a common-sense, workable, constitutional solution to a national problem. Mr. President, I move its immediate consideration and passage.
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 voting rights bills have been approved by the Congress. The amendments to the Constitution 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. I support the Dirksen amendment to improve 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 supported arguments 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 framers, 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 representative 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 provision 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 the citizens of our State are not necessarily more intelligent 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 or on local 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 referendum in which the power is apportioned on factors other than population.

Should this amendment be approved by both houses of the Congress and ratified by 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 the liberties of all Americans. If the Dirksen amendment should be passed through both branches of Congress, there is real fear that three-fifths of the legislatures would ratify it in violation of the amendment which the Senate wants to make to it. If this amendment is adopted, it will allow the least populated States which have not been reapportioned to become the most populous States if they should thereafter be reapportioned.

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 taken upon such slender grounds.

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 to Mr. Douglas?

Mr. DOUGLAS. Mr. President, I should like to yield to time to the distinguished Senator from Massachusetts (Mr. Kennedy). He is not on the floor for 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 (Mr. Murrill), 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 not valid. 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 Ohio 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 add 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 next step toward the 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 a procedure of this nature 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 Stelia School District when we passed an earlier civil rights bill.

I would note 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 co-sponsorship 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 non germane 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 non germane 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 democracy. It is a right which protects and guarantees 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 aspect 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 do 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.

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.

Mr. President, we 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 Constitution.”

It is not enough because the practical effect of this proposed constitutional amendment is to alter and dilute two existing constitutional 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 any group 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 pointed 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 examined 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 amendment which might, for example, be adopted, the Dirksen 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 be based on a one-man, one-vote philosophy.”

Bernard Kleinman, a Chicago attorney, testified to apportionment abuses in Illinois,” in his testimony to the committee. He pointed out that the proposal 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 members of this Congress and of the citizens of the Nation support.”

The New York City Bar Association offered the following resolution: “It is imperative that the amendment be adopted, the Dirksen amendment might * * * invite attempts at districting based on racial criteria or arbitrary criteria having racial or other discriminatory overtones. The Senate is patently us to have an amendment which might, for example, be relied on to undermine the safeguards of the 15th amendment.”

The National Conference of Federal Legislators 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 was concerned 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 American, 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 question was expressed by Prof. Robert McKay, associate dean, School of Law, New York University. He stated that the ACLU believed that its interest in first amendment, freedom and minority groups' rights was concerned by the lack of adequate safeguards against discrimination:

"We do not pretend to say * * * that the question is 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 that I would think the Supreme Court would knock that down if it were overt, but as soon as you take popud out of it there are ways of indirectly achieving the same result. Any kind of emphasis upon disenfranchisement of certain areas, for instance, and it comes very close to the area of interest of the ACLU, tends to work to the disadvantage of minority groups because the people tended to withdraw their own interest or not 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 would undermine the 15th amendment guarantees upon which this Voting Act was premised?

We must not write into the Constitution a device for disenfranchise of our Negro citizens. I believe and I am sure that the people who 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 obviously, 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 democratic system of government. It is no more a repudiation of democracy, the only rule which can make possible a rebirth of federalism, and the only rule which will maintain unviolate 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 1835, Massachusetts was the first State to establish 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 established this position 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 "freetholders," and 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 equal 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 Massachusetts Legislature declared that every town should 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 "freetholders," and 1 more for each additional hundred.

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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, 1965, the States reapportioned their legislatures in accordance with the Baker decision. There were only eight States where the minimum percentage of population needed to elect a first class member 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 was recently adopted by this Chamber to call a constitutional convention to pass a constitutional amendment permitting apportionment of State legislatures on factors other than population in the face of the Supreme Court's edict. 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 particular point of view on the subject. I have not yet had an opportunity to study the subject in some depth. I believe it is incumbent on me to at least record 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 a popular sentiment for the one-man, one-vote 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 bridge 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 the 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 in the Baker case was one of 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 decision, 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 feasible 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. I thought that the States geographically and evenly leeway to determine for themselves, in light of certain circumstances which existed in individual States, the way in which they wished to apportion.

One of the great assets 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 the Denver area. The legislation that we 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 thought basic 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. DIKSEN) has gone out of his way to accept these three particular proposals made by me and other Senators. I think my count 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 experimentation, and I think we would find it difficult to judge what the Court should do.

If we are to talk about equality of representation and 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 whatever.

Therefore, at long last, with some reluctance, I do 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 the 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 from any plan that 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 Illinois 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 the Dirksen amendment, we are now dealing with a committee that has been working daily 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 the great depth with the subject deserves. 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 176 years of national growth, 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 motivate a constitutional provision that 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 one has shown that more 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 asking 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, the light of serious defects in the amendment, I must vote against it.

Yet no Senator has been more concerned about the problems of fair State legislative reapportionment.

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, I had more confidence in 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 162,176 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 apportionment based completely, or substantially, on population.

What happened to change this predominant pattern of equality of representation in the States?

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 1800 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 50 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 issues and 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 or unable to respond.

I cannot support any constitutional amendment which would permit continuation of the gross malapportionment which has imperiled our Federal system.

I believe the principle of majority representation and majority rule which underlie our entire system of government must be preserved.

One man, one vote is a basic rule of good government.

I also agree that the rule of one man, one vote is a basic rule of good government.

And 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 Federal government.

One vote without the right to vote is simply a mockery, and that is why I support the Dirksen amendment.

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 have 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].

Mr. HICKENLOOPER. Mr. President, I have heard Members of the Senate deprecate 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.

Yet, the amendment has suggested that the extent of our freedom of religion or our freedom of the press should be decided by an election.

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.

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 have 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.
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 democratic principle of the Constitution that each person has an equal voice in the federal legislature, but also to protect those powers of the States themselves to protect those powers.

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 and in support of the fundamental principle which has become the hinge which will permit us to open the door to future apportionment of the States.

As the writer of the Dirksen amendment, it seems to me that this amendment would offer not only an opportunity to implement the basic democratic principle of the Constitution that each person has an equal voice in the federal legislature, but also to protect those powers of the States themselves to protect those powers.

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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 grand children.

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 legislative apportionment system turned to Washington for his State from Federal programs, on the grounds that his legislature is now so inefficient 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 10 years ago De Toocqueville 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 accomplished 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.

The States can 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 redistricted in this country’s industrial future in such a way as to perpetuate the political domination of the five or 10 largest States.

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, it will, by its very nature, be based on 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 with no check or restraint.”

In a compelling farewell to the 14 issues of Newsweek, Mr. Moley said:

“The suggestion of the necessity of countervailing forces to assure deliberation of debaters and legislative calm these days may be expressed by the need to correct a political imbalance. 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.

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 and became more pronounced under the Federal Government which had unlimited funds to supplant the machine’s treasury. This, it seemed, meant the twilight hour of the bosses and the political machines. 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 urban organizations will dominate the State capitals. And through control of the legislatures, legislative majorities-machine-tooled in the political system of free choice which we hold as precious—will be perpetuated 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 half the States—of no line of business.

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 cities control the political power of the House, then Senators we will be forced to prove that it cannot 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 five or 12 largest cities could very well be reduced to a political silence 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 the fewest 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.

At each stage of our evolution toward 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 believe that 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 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 to act I am afraid we will have to decide 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. D IRKSEN. 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 stands.

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 other 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 amendment both fulfills and compels them to adopt that principle.

The opponents 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 for themselves how the representation in the second house should be based. If they do not trust the people, they say, 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 at the end of each decennial census the people have an opportunity to vote 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 on the basis of race, color, or creed, the 14th amendment to the Constitution remains. It is nothing more, nothing less. It 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 that if 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 which the apportionment is to be conducted 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 amendment 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 work of any house of a State legislature might be developed to perpetuate in that 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 process. As I served, roughly 30 percent of the people in our second house were legislators. 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 a Democratic fight. Nor is it a rural and urban fight either. Farmers living in my county were as underrepresented in the legislature as people living in the largest major city. And Democrats as well as Republicans, as a matter of fact, 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 keeping to the people their powers of government. Under our system of government, we say that the people have a right to do what they wish. If the people do not have the right to decide the composition of their legislature, I say they do not have the right to do what they wish. If the people do have the right to decide the composition of their legislature, I say they also have the right to do what they wish.
In conclusion, let me say 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—not 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. What is the remaining time?

The PRESIDING OFFICER. The senior Senator from Illinois [Mr. DOUGLAS] has 47 minutes. The junior Senator from Illinois [Mr. DIKSEN] has 94 minutes.

Mr. DOUGLAS. In view of the time situation I suggest that my friend and colleague [Mr. DIKSEN] use some of his time, and we shall use some of our time, but of course, we shall permit him to close the debate.

Mr. DIKSEN. Mr. President—

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIKSEN] is recognized.

Mr. DIKSEN. 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. DIKSEN. 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. It is my hope 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 out of this, 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 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 editorialists 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. Justice Frankfurter was getting into a political thicket. He had seldom read a better or more classical dissenting opinion than that. Mr. Justice Frankfurter shared with Mr. Justice Harlan the opinion of the bench, the sentiment with respect to the authority and the competence of the Court to intrude itself 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, 1969, one day before this. It was in that same term 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 regard the dissent more as the Herculean effort on 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 and the competence of the House to intrude itself 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.

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 8 days of hearings were held by the Tuck bill in Mr. Justice Harlan's 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 10 to 4 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, that there are 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 take the following week, or the following week after that.

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 was 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. What 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. It was a fact that the 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. Voluntarily, he makes 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 went 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 fighting the battle of survival. That was not 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 pilled 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 proceeding to the vote, for the sake of the court, we adjourn until tomorrow. We laid the Senate on the table. It being 2 p.m., I moved to adjourn.

Mr. PRESIDENT. The Senate is adjourned.

Mr. IRCSEN. I was delighted to turn over my office to the subcommittee in order to hammer out the differences.

Mr. SMATHERS. The subcommittee on Constitutional Amendments, presided over by my distinguished friend and Hoosier neighbor [Mr. BAYH], for whom I have great affection.

Mr. BAYH. Mr. President, will the Senate 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 amendment. I 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. DIRKSEN. Mr. President, will the Senate yield?

Mr. BAYH. Mr. President, I am not sure, but I believe almost every one of the subcommittee meetings was held in my office.
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 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 10 of 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. If 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 they do 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. The people in Wisconsin understood judicial reform.

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 malapportionment, 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, being each very complicated business, we understand bond issues for schools and highways.

We 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.

I hope that the whole burden of my argument has been: 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? The States do not do anything?

The erosions are bad enough as it is. There was the Nelson case in Pennsylvania. Under the subversion law some one 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-Connelly 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 the shops will be shut down in the car industry. He knew that we are in the position referred to by the distinguished Democrat from Maryland [Mr. Tydings], that he must receive 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. Some of the boundaries will be Rand McNally, for there will not be any authority left in the States.

"So, 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 rejected 63 to 1. 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 Uniting State 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 I can tell you what 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, that is an approach that they must do something. 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 Massachusetts [Mr. Proxmire], the Senator from Wisconsin [Mr. Proxmire]. "Don't do that. I purposely put those on there." He would say, "I won't do it, but you will see the decision stand without a constitutional amendment, the erosion will continue.

I see present in the Chamber my good friend from my State, my friend and colleague the senior Senator from Pennsylvania [Mr. Clark].

"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 Mr. Proxmire.

The Senator does not want his neighbors in Minnesota to have that right.

Mr. President, the whole burden of my argument has been: 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 making new ones, and they put 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? They can make a plan and freeze it.

You feel about 14(b) and 14(c). 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." 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 to run against him. 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. Carlisle], 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 have an affirmative vote 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 do it, but you will see them stand 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 have been urging all along, because if we do not have a Federal-State system, what do we have?
entitled only to two. One of the three 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 Senate 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 I exclude myself—who is not going to run for reelection, I have to see it.

The State legislators are 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 Indiana yield?

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 friend [Mr. TYDINGS] from Indiana, 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. I did not in any way wish to demean the many men and women in my State, in the State of Illinois, and the other 48 States, who serve their constituents with a great deal of honor.

Mr. DIRKSEN. I have asked 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 principles, 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. Altogether, made me wonder what was meant 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 my 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 the 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 being paid. They are trying to keep 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.

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 that was the thing which the State of California could.

In the space of 15 or 16 years he did a 180° turn.

There sits the distinguished Senator from California [Mr. Kuchmi]. Four times they voted down population. The 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 not a wonder that the State of California, prosperous 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 we must have for a State like that, they should vote down the population idea alone. They had their choice in 1948.

Mr. President, I do not know that I need say anything 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 85 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 the old guard, the venerable Eleanor Smith of Philadelphia. Her father had 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?”

Mr. 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.”

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 no 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.

Seeing the very face of America, I will give any humble person the opportunity that this country does. I do not want it eroded; I do not want it sullied; 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 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 failed in the endeavor 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 the questions of 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 Senate," in view of that portion of section 4 of Article IV of the Constitution, which states: "The United States shall guarantee to every State in this Union a republican form of government."

Mr. D IRKSEN. 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 is 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 constitution making powers i.e. are free 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 laws."

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, 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 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 abysmally low. In only 15 out of 47 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 if 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 the 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 this is particularly true of those 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 referenda proposal. Consequently, the Congress submit the Dirksen amendment to the States and to have it ratified by the legislatures.

Mr. President, another deception in 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. There is another 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 this argument, 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 for good reason. Minority control of one house of a legislature, as should be apparent to everyone, in actuality gives 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 district had been drawn 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 resides. People are much more likely to vote 70 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. The people of the 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 State legislatures 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 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 would pass.

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 thereof.

Mr. DIRKSEN. Mr. President, I yield 1 minute to the distinguished Senator from Alaska.

THE SCRIPPS-JOHNSTON NEWSPAPERS SUPPORT THE DIRKSEN AMENDMENT

Mr. GRUENING. Mr. President, the Scripps-Howard newspapers, publish 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.
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 axes up my sleeve.

The PRESIDING OFFICER. Who yields time?

Mr. DOUGLAS. Mr. President, I yield back the remainder of my 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 1½ minutes.

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

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

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

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 my remaining 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 appropriation 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 Nebraska, who is in accord with the amendment.

It just states that the people may apportion one branch of the 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 elementary provision that we can couch it in the English language. It will be all right if the plan is fair and reasonable. The people will 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 understand 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 amendments. In nature and ask that they be consolidated as No. 1 be stated. on page 2, line 8, strike "or" and insert "and.

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, 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 was proposed to 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.

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 to the floor after a decennial census, and that we would agree that these are clarifying amendments.

Mr. BOOGS. 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 in the same case".

On page 2, line 20, substitute "similar" for "similar" and insert in lieu thereof "reasonable."

Mr. HRUSKA. Mr. President, I call the attention of the Senate to the fact that 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, used "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 at 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. DOUGLAS. 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 amendment, 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 was proposed to 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. BOOGS. 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 most populous areas who generally make the decision under both plans, whatever reapportionment plan was proposed to the people residing in the less populous geographic areas or political subdivisions of the State shall in no case have lesser representation in either house than they would have under a plan based upon substantial equality of individual votes.

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Where reapportionment has taken place, it is the legislators from a State's most populous areas who generally make the decision under both plans, whatever reapportionment plan was proposed to the people residing in the less populous geographic areas or political subdivisions of the State shall in no case have lesser representation in either house than they would have under a plan based upon substantial equality of individual votes.
It is not reasonable to assume—that a legislative 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 voice.

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.

The purpose, 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.

An 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 any apportionment plan could cut back the present position of voters residing in less populous areas in their 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 in my statement by saying that a less populous area has 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 subdivisions—

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 wouldn't the Senator modify the amendment in the way that 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 built-in protection 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 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 be less represented 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. There is no way that language such as this could be handled.

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 the same representation under the amendment as the 100th county.

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 now recurs on 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]. He is present and voting; I would vote 'nay.' If I were at liberty to vote, I would vote 'yea.' I withhold my vote.

The rollcall was concluded.

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Mr. LONG of Louisiana. I announce that the Senator from Minnesota [Mr. McCarrthy] is necessarily absent and his place was previously announced.

The result was announced—yeas 59, nays 39, as follows:

[No. 203 Leg.]

YEAS—59

Alken, Fulbright, Murph
Allott, Gruening, Pearson
Barth, Hart, Proby
Bennett, Hayden, Robertson
Bible, Hicklenooker, Russell, S.C.
Byrd, Va., Hill, Russell, Ga.
Byrd, W. Va., Holland, Saltonstall
Cannon, Elliott, Scott
Carlson, Jordan, N.C., Simpson
Church, Jordan, Idaho, Smathers
Cooper, Kuchel, Smith
Cotton, Lausche, Sparkman
Curts, Mansfield, Stennis
Dinkins, McChillan, Symington
Dominick, Metcalfe, Talmadge
Eastland, Overman, Wisecord
Ellender, Moroney, Tower
Evans, Morton, Williams, Del.
Fante, Morris, Young, N. Dak.
Fong, Mundt

NAYS—39

Anderson, Inouye, Morse
Battle, Jackson, Muskie
Bayh, Javits, Nelson
Boggs, Kennedy, Mass., Neuberger
Brewer, Kennedy, Minn., N.Y., Pastore
Burdick, Long, Mo., Pell
Case, McGovern, Proxmire
Clark, McClellan, Randolph
Dodd, McGovern, Ribicoff
Douglas, McIntyre, Tydings
Gore, McNamara, Williams, N.J.
Hart, Mondale, Yarborough
Hartke, Moynihan, Young, Ohio

NOT VOTING—2

Long, La., McCarthy

So Mr. Dirkson'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. YARBOURGH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. YARBOURGH. 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 his time and perform 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 business connected 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 correct.

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 1952 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 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 the issues involved purely political questions and presented an issue inappropriate for judicial determination.

Mr. Justice Frankfurter, dissenting in the Baker against Carr case, attacked the foundations 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 and surest way of political reform.

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—when 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 the real reason for 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 thereof, that States to decide under what 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 they shall operate. 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.

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 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 apply the same principle to every State 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 1934, or in 1944. Yet, the Court held that it did in 1954.

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 transplanted 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 5. In the name of these advocates of the one-man, one-vote rule suggest that Egypt should be allowed to outcry 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.

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:

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 the 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 then the State has 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 1861 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 casts aside history, tradition, geography, local interests, and local problems, differences in dialects and language, in customs, in ideas and ways of working in each part of each State; which will almost inevitably deprive minority groups of a fair vote and advantage in the representative halls of their principles, customs, traditions, their particular problems and desired solutions, and the preservation of their cherished and distinctive ways of life, which are so important to them, 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 set their trust for a century or more that 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 legislature to the people he represents.

One moment, 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 own 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 co-sponsor 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 the Senate amendment gives the voters may have some ideas of their State's constitution, each State would 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 about how their legislatures should be structured? 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.

As Mr. Justice Woodbury said many times, "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 gives the Congress the unlimited power to establish a scheme of representation based on population, even if the Dirksen amendment fails, 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 guarantee to every State in this Union a republican form of government." What is meant by the term "State"?

The clause may, therefore, be restated as "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, knowing 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 not concerned with what power 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.

Any one who will seriously contend that the 14th amendment gives the Congress the unlimited power to establish a scheme of representation based on population, even if the Dirksen amendment fails, may declare unrepublican those State governments whose legislative arm was shaped under judicial coercion.

The majority report of the committee maintained that it was for Congress, not the President, to establish the relationship between the Southern States and 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 inert duty." 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, to make safe, to 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. It 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.

The great revolution that 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 statutes under the 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 all civil 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 politics, they will detrmine themselves and lose one of their own invaluable birth-rights; 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 the number of its members, than a simple electivearchy 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 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 because he believes 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 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 geographic 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 as the Senate—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. In offering 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 Dirksen. I also pledged that I would not support an amendment to the Federal court order 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 the purpose of amending their State constitutions. If amending the Constitution 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 governmental institutions have been 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 successfully with 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.

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 realignment 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 reapportionment. • • • 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 pain and suffering. But 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 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 California, 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. Meanwhile, the Sims decision against Sims 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 Reynolds 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 a 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 shepherdess of Het-tinger 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 back-scratching 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, indeed, at the Constitution, 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.

Wrote Mr. Otten, a most astute political reporter on the national scene—

it also is focusing attention on the whole problem of absolete State government. In close to two dozen States, constitutional revisors and other 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 constitutional provisions 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 foil 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 202,783 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 ten years. The rural sector has steadily diminished by the suburban 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:

<table>
<thead>
<tr>
<th>Type of congressional district</th>
<th>Democrats For H.R. 6196</th>
<th>Against H.R. 6196</th>
<th>Percent of total votes for</th>
<th>Percent of total votes against</th>
<th>Percent of Democrats for</th>
<th>Percent of Democrats against</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>249</td>
<td>177</td>
<td>207</td>
<td>10</td>
<td>42</td>
<td>167</td>
</tr>
<tr>
<td>Big city</td>
<td>91</td>
<td>31</td>
<td>75</td>
<td>1</td>
<td>13</td>
<td>30</td>
</tr>
<tr>
<td>Middletown</td>
<td>23</td>
<td>35</td>
<td>18</td>
<td>1</td>
<td>5</td>
<td>34</td>
</tr>
<tr>
<td>Rural</td>
<td>135</td>
<td>111</td>
<td>111</td>
<td>8</td>
<td>24</td>
<td>103</td>
</tr>
</tbody>
</table>

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 BYPASSsed 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 State righter.

Mr. Eisenhower: Opposed though I am to needless Federal expansion, since 1953 I have found it necessary to urge Federal action in some areas not only because of the need but because of the passions, such as 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.

For Governor 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 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. And so, Mr. President, in the words of the Constitution: "Congress shall have power to legislate with respect to all corporations exercising commerce among the several States." This is the "general welfare" clause of the Constitution. It is the bedrock of the new day. Inadequate education of the body which has failed to enfranchise the people is a disturbing thicket, for it is more in some respects than mere poverty. The body which has failed to enfranchise the people are not easily grasped by the people.

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."

We 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 and in some of the Unorganized Territories of the Dakotas, 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.

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 few votes—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 a citizen's vote cannot be diluted by 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.

Rural people need the guarantee of one man, one vote, or they could lose even the one they have.

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.

I only think it is asking too much of most politicians. The rulings of the Court's have clearly enunciated, that the members must face new constitu­ents and deal with uncertainties—in short, that the people have a right to free speech or free press. A few votes—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 a citizen's vote cannot be diluted by a blind, mathematical formula which has no give or take to it. Indeed not.
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 of a minority 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 fleetting majority in a State legislature has either right or reason to tamper with. THERE IS NO SUCH THING AS BEING JUST A BIT DISFRANCHISED.

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 disfranchised."

I have already pointed out how grandfathers who move from the farm to the city can in North Dakota have their votes whittled away by an apportionment 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. Why should the vote be diluted each time we move? The Supreme Court soundly reasons that in a mobile society the Founding Fathers intended that neither would they violate the protection of the laws guaranteed by the Constitution 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 and the qualification of the franchise 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 1 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 proof of literacy as a test 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 unambiguous. 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 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 the State of North Carolina against a challenge 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."

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 a test or device to determine the qualifications of persons 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 the 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, in his own terms of this bill, could determine that writing a letter 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 right provision, 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 proposition 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. The amendment is mere words unless it is further effectuated by this amendment must be predicated upon the denial of the right to vote for the specific reasons enumerated in the amendment.

The 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 foundation 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 compel the 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 open 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 Greenville, S.C., News on March 16, 1965, states that the official total registration for the 1964 election in South Carolina was 772,748, whereas the estimate by the Bureau of the Census, as of November 1, 1964, was 1,262,551. The total voting-age population of the State of South Carolina, according to the 1960 census, was 1,262,551. 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 the latter figure and no other is 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 by the provisions of the bill fortunate, as a large percentage of those registered to vote chose not to vote in the presidential election of 1964. Last fall 324,748 registered voters cast their ballots 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 it was necessary or is a necessity for 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 encroach on the rights of any person unfortunate or fortunate in the right to vote. I have 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 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 other persons, 31 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 of the pretexts of this amendment is that voting discrimination 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 voting 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 indeed.

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.

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 the right to vote is not a right inherent in every citizen or a right that should be constitutionally taken to establish qualifications for voting in the Federal elections. It is the only method which can be constitutionally taken to establish voter qualifications in any State.

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Lift the People Decide
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 legislature by a judicial oligarchy of five members, who make 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 population plus geography rather 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 neighbor to the west, has had its heartaches and headaches in the 175-year political history of our Federal Union. 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 vote, 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. 209 (1964)—the Supreme Court said 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 dracoian pronouncement, which makes unconstitutional the legislature of most of the 50 States, finds no support in the written 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, we are being denied, not only what I would have said, "might makes right," but what I would have said, "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 apportionment of 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 the States and all the various areas within those States full and equal 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 say, "Let the people do their thing. It is the responsibility of the States to pass on 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. It 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 specu-
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 report to the National Academy. And the principal business of the Academy would be to teach courses and conduct research in "total political warfare" and its allied fields.

Such a proposal is not new. The bill just reported by the House committee is patterned after a measure already approved in the Senate 5 years ago. Since then, a bipartisan coalition of liberals and conservatives in both Houses have kept the idea alive. Several plans include such respected men as MUNDT, CASE, DODD, DOUGLAS, FONG, HICKENLOOPER, MILLER, PROCTOR, PORTER, SCOTT, and STEINER, the Senate; and Ichord, Heilong, Gurney, Boggs, Gurley, Clausen, Ashbrook, Buchanan, and Freeman 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 key posts in Government, its allies, the nature of communism and the techniques of the Communist conspiracy around the world. In their effort to stem this tide, they are using this bill as their weapon. Trustful, innocent, gullible, understanding; and it would draw its students not only from Government agencies, but also from key institutions and governments throughout the free world.

Now, Senator, the State Department is cold to the plan. In its view, "the bill as a whole would not serve as a useful instrument of national policy." Granted that, many call for an expanded, not only military 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 policy can be effectively directed by a State Department agency, especially one without operational responsibilities."

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 plans 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 Freedoms Institute would be a great step beyond in the direction of "Communist external political warfare," and the devising of means to combat it. In the words of the House committee, it would "undertake to provide comprehensive information and education, cooperative with State, Defense, and the CIA but separate from them, four right kind of institution.

The Freedoms Institute would include no indication of the probable cost of the freedom commission (the State Department's own 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 $800 million in foreign aid laid out for Indonesia.

**NATIONAL AMERICAN LEGION BASEBALL WEEK—LEGISLATIVE REAPPORTIONMENT**

The Senate resumed the consideration of the House-passed 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**

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." And 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."

Acting on the basis of the equal protection clause, the U.S. Supreme Court—taking up the question of reapportionment on the basis of equal and just representation—ruled that the membership of the South Dakota Legislature 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 D'irkson amendment would impede the progress of civil rights. But our amendment would have to come at the cost of the effectiveness of State governments.

I am especially interested in the effectiveness of State governments. We hear much today about the desirability of having more vital and energetic governments on the State level. How can we expect 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 compete with each other for State government services, 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 body of our local and State governments.

This situation was recognized by the Commission on Intergovernmental Relations, which reported to Congress in 1955. The Commission, under the chairmanship of Meyer Rostenbaum, 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 size of the State legislature may vary from not less than 25 to not more than 33. 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 the first reapportionment of 1870. Each 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 movement across the State, the South Dakota legislature 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 step—in 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.
MR. MURPHY. Mr. President, as a co-sponsor, 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 for his perseverance, his astuteness, and his leadership in sponsoring 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 legislatures must be apportioned on the basis of population. This was a precedent-shattering and a far-reaching decision—one that I believe 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 preserved their 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 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, the Nation 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 detect in the legislatures of today the many interests of our people, the many people who have been accommodated, and the system under which the will of the majority has prevailed and the rights of the minority have been protected.

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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 Federal system. For weeks, Senator Dirksen and Senator Mansfield, the majority leader, have agreed to seek unan­

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, thereby enabling the people of the minority to be dominated by a minority of the population over which they have no control.

This is not true. The Dirksen amendment contains two key provisions. First, assuming ratification of the amendment, a State legislature choosing to use the one-man, one-vote form, should be approved. For it has been so significantly improved since it was first submitted.

Furthermore, a recent change in the amendment stipulates that any plan approved by a State legislature would be submitted to a new referendum every 10 years.

What could be more reasonable, more consistent with our democratic process? To oppose it on "liberal" grounds is absurd. We think the Dirksen proposal, in its present form, should be approved. For it has been so significantly improved since it was first submitted.

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. Fortunately, we have not yet been confronted with 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 vote" 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, in 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 compiled with the Supreme Court's one-man, one-vote plan. The people 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 resolution. In fact, all 39 of the senators cosponsored the resolution. We did not have a vote, 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. After my 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. An overwhelming majority of the State legislature on this issue. There is a substantial consensus among Californians on this issue.

Opponents of the Dirksen amendment have attempted to argue that this legislation by improperly suggesting that the 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. Kuchel] who originally sponsored the Senate bill, or for that matter any other Senator involved in this legislation, knows that the rights held by the people would be in more danger if the federal government were not involved. When a Senator from California, a man whom I have always thought of as a statesman, says that unless the people of the United States have the power to vote on this issue, it 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 of government that has operated successfully well in times of both peace and war. Despite the divisions, the State governments are similar in their operation in the interest of the people. 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 judiciary committee has 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 Guernan v. Kernan, 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 excerpt was ordered to be printed in the Record, as follows:

In adopting this political and practical compromise, Illinois has done more and no less in my opinion than to follow the example of the Founding Fathers in the formation of the Constitution of the United States. Recognizing the necessity for protecting minority voting rights and local sovereignty, the Founders 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. The system as it is presently used has been properly 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 typical distinctions between the Federal Government and the individual States. My reliance on this analogy is limited somewhat by the mere numerical differences. The States as sovereign preexisting smaller units created the larger unit, the Federal Government. Contrastingly, in apportionment cases we view the Federal Government as the larger unit created by the smaller unit creating the smaller. And further, the smaller unit in apportionment cases lacks the power to act in the State when it comes to the decision of the people. The States in their relationship to the Federal Government. However, these distinctions do not render for naught this analogy. In both the States as sovereign have equal rights, there must be protection of majorities and check unopposed majority control. The methods selected to achieve the desired purposes are similar, and it seems perfectly logical to have one house reflect, if the people desire, the local government unit.

Mr. President, 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 State-wide 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 knows the urban problems, made the following comment regarding the 1961 session of the California Legislature:

Both offensively and defensively the so-called rural senators and legislators show a 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 resist and resoundingly shout it down. Could the opponents of the Dirksen amendment for a similar reason, and in the interest of the people tolerating the existence and continuance on an infringement of the right of freedom of speech, of freedom of the press, and of freedom of religion for the period of time the States have 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 School of Law which distinguishes between some of the personal civil rights and the question of fair representation may be printed in the Record. Professor Dixon has long been a student of constitutional law and his remarks on this subject rest upon an admirable argument.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

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 at the heart of the issue of fair representation. The issue can be pinned also as one of political equity. To put it more clearly, we are not here asked to set up a legislature, a representation system, to serve as a substitute for a direct democracy of the town meeting type. Rather, the issue is the principle of fair representation. The issue can be phrased as one of political equity. The issue can be phrased as a sub-

bining the matter of one man, one vote. For example, an at-large one-man, one-vote plan that has been made official, if you would put your finger on Imperial County, California, will have to discard the present basis of representation. The then Senator Rattigan addressed himself to the problem of setting up a legislature, a representation system, to serve as a substitute for a direct democracy of the town meeting type. Rather, the issue is fair representation. The issue can be phrased as one of political equity. The issue can be phrased as a sub-

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bining the matter of one man, one vote. For example, an at-large one-man, one-vote plan that has been made official, if you would put your finger on Imperial Count
Mr. President, I ask unanimous consent that various editorials in support of the Dirksen amendment be printed in the Record.

Finally overcoming its reluctance, the assembly has joined the Senate in petit­ioning Congress to act on modifying the Supreme Court's harsh legislative reapportion­ment decision.

A great deal of precious time was lost byassembly because of the failure to support of a proposed constitutional amendment restoring the right of States to elect one legislative body for the purpose of reapportionment.

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 is more argument than action in Sacramento.

But now that the assembly has voted in favor of the reapportionment amendment, the Governor should be called upon to sign a new bill for the Court's approval. Governor Brown should begin a determined effort to win congressional approval. California has the second largest delegation in Congress and its members might make common cause with the many other States 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 bill that has been 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 specifically endorsed by the people and the unique characteristics of 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 delay the pending Senate Courts of Appeals decision 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, to be determined by the final word in constitutional law. Our forefathers wisely established an amend­ment 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 when our Constitution is incruci­ation of representation in the State legis­lature. I urge passage of the resolution.

The people of California have clearly indicated in past years that they do not want the State's electoral system on a population basis. It is written into the constitution. Six pro­posals to reapportion the legislature were defeated by the courts across the State. This last was as recently as 1962.

As then Gov. Earl Warren pointed out in 1946, "Large counties are far more important in the life of our State than little counties that bear 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 divisiv­ity in California. Some are already 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 continued on the local level in earnest and maintained incessantly.

Justice Arthur Goldberg of the U.S. Supreme Court defended in Washington the other day the California Coordinating En­tity's call for a constitutional amend­ment 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 also never 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 Californian weighs as much in the U.S. Senate as the votes of 60 Californians.

That is the federal system, prescribed for the States by the Constitution. California was also, in a modified and very successful way, the system followed in California's State senate until the Court Interferred.

The people of California cannot let the Court dictate the way they organize in the State's government. The people of California have the right to vote for the representatives that they want in the State government. This right is a good initial step. Now the campaign must be continued on the local level in earnest and maintained incessantly.
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 Congress to act is shown to be about a constitutional amendment is all the more pressing. It is certainly the "sense" of the States that defense of their fundamental rights is still as important as ever. The citizens of the States should make their wish clear to the Congress and to the legislatures that a constitutional amendment which would give States the 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 on it.

[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 wholehearted endorsement to a 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 personnel in the legislative system which existed prior to the Court's recent ruling and which served the public interest.

There is no sound basis for criticizing the Court for its decision that the Constitution requires the membership of both houses of the legislature to be based on population, and that 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 William McCulloch, Republican, of Ohio, has introduced a resolution in the House of Representatives to amend the Constitution to further guarantee the right of States 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 country. Increasingly, the people have repeatedly expressed their desire to maintain the present legislative structure. In their own words, 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 disfranchisement of the people who have not migrated to metropolitan centers.

This development could prove disastrous to this country's entire concept of free and equal representation of its full economic development.

California, the most populous State in the United States must now assume its responsibilities of leadership.

[From the Culver City Star News, Feb. 16]

A Republic or a Democracy? New Rule on Apportionment

The magnitude of the political change that is to come over California is reflected in the tentative plan for reapportionment of the State legislature.

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 doctrine.

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, of Maine.

She insists the United States is a republic and a truly representative government. "The voting 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 system which guarantees equal protection 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 U.S. 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 States. It is therefore any legislative body apportioned by area and not population is unconstitutional and therefore inconsistent with the 1964 views of Justice Warren.

A large proportion of California voters will in fact be disfranchised 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 equality. Such a proportioning 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 up-and-coming 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 balances on urban majorities.

We have never lived in a society of absolute majority rule. Any system in which majorities have unlimited dominion over their own affairs is anarchy. Just as no system that gives a minority unlimited dominion over a majority is inherently tottering.

The problem, then, is to protect the vital interests of minorities, including rural minorities. Toward that vital goal, we urge the Legislative Council of the State of California to call to a constitutional convention to deal with the apportionment problem.
[From the San Jose News, Aug. 7, 1964]

A Rational Proposal: REAPPORTIONMENT

A balanced, fair, and far-reaching decision by the U.S. Supreme Court sometimes is fol-
lowed by a rash of countermeasures, usually in the form of constitutional amendments, which
are defeated in subsequent congressional committee pigeonholes.

In the heat of controversy, proposals some-
times are adopted without realizing why
they are adopted or the consequences of
why 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 appor-
tionment.

Authorized by Representative Charles S.
Grassley, Republican, of Iolay, this constitu-
tional amendment would not affect the
Court's insistence that cities be fairly repre-
sented in State legislatures. That principle
is a sound one.

What the Gubser amendment would do is
enable a State to follow the Federal Govern-
ment's example of having one house appor-
tioned strictly on a population basis and the
other apportioned along lines dictated by
geography and other factors.

The State's representatives and the U.S. Senate are organized in accordance with
such a formula. So is the California Legisla-
ture.

This is not a denounce the Supreme Court or
impeach Earl Warren. 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 reappror-
tionment have been hailed by many metro-

politan areas as one of the most significant
advances in the United States to enable a
balanced, fair, and far-reaching decision on
that Federal system by making it absolutely cer-
tain through the initiative that a willful
minority of State legislators can have jurisdi-
cion in major metropolitan areas would have
immediately followed. No such need existed
in the "rural" areas.

As indicated at the outset, the record of
the senate of the State of California on
the levy of both sales and use tax by cities and counties. This latter proposal which was opposed by farmers and agricultural interests now produces in the neighborhood of $500 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.

1937

S.B. 900 (ch. 529) 1941 revenue bond law: To include其中包括 draining, parking, swimming pools, and terminal facilities within revenue bond financing authority of cities.

1956

S.B. 278 (ch. 709) Reimbursement agreements in subdivisions for drainage: Extended seven years and extended to storm drainage.

1957

S.B. 1235 (ch. 1352) 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. 755 (did not pass) County and city affairs commission: Showed recognition of metropolitan area problems. Measure would have been a forum to consider local intergovernmental relations problems.

1961

S.B. 1081 (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 agencies financially responsible to provide a minimum standard of municipal services.

S.B. 1264 (did not pass) Local option in lieu tax: This measure would have helped citizens control future taxation costs. The money would have been spent within metropolitan areas.

S.C.A. 20 (did not pass) Telephone gross receipts tax: Would have helped urban areas. It would have provided only by city. Approved by senate and defeated by assembly.

S.B. 1222 (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.

S.B. 344 (ch. 1852) Gasoline tax: This unquestionably was one of the most important measures considered during the 30-year period we are covering. City receipts from gasoline taxes were more than doubled and, as a result, the city's fiscal condition can now be 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 by 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.

If a hold off of the Hayden amendment is flat and where successful, they have been successful in convincing the legislature to consider governmental problems which would arise if liability made government agencies financially responsible to provide a minimum standard of municipal services.

In the 1963 session, as well as others, there is no question but that bills beneficial to urban interests were initiated by 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.

If a hold off of the Hayden amendment is flat and where successful, they have been successful in convincing the legislature to consider governmental problems which would arise if liability made government agencies financially responsible to provide a minimum standard of municipal services.

Mr. DICKEN (for the quorum call be rescinded.

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 substitute, as modified.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

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 Senator from Minnesota [Mr. McCarran]. If I were to vote, he would vote "nay." If I were per-
August 4, 1965

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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. McCARTHY), 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 roll call 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.]

MISS.—57

Aiken
Allott
Barrett
Bennett
Bingaman
Bing
Hickenlooper
Hyde
Wyche Va.
Byrd, W. Va.
Cannon
Carr
Cassidy
Church
Cooke
Corbin
Cotter
Curtis
Dirksen
McCollum
Sennett
Dominick
Eastland
Ellender
Ervin
Fannin
Hayden
La., Long.

Fong
Fullbright
Gruening
Hart
Hollings
Hollander
Hollings
Hollister
Hughes
Hunt
Jackson
Kuchel
Kuchel
Lautenberg
Lausche
McGaffey
McMillian
Metcalfe
Miller
Moore
Morton
Montoya

Murdut
Murphy
Pearson
Perry
Proby
Roberson
Rogers
Russell
Rutledge
Smaller
Simpson
Smith
Smith
Sprague
Talmadge
Thurmond
Tompkins
VanWinkle
Williams, Del.
Young, H. 
Dak.

Morse
Muskie
Nelson
Neuberger
Pastore
Peil
Proxmire
Randolph
Ribicoff
Tydings
Williams, N.J.
Yarbrough

Morse
Muskie
Nelson
Neuberger
Pastore
Peil
Proxmire
Randolph
Ribicoff
Tydings
Williams, N.J.
Yarbrough

NOT VOTING—4

Hayden
McCarthy
Symington

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 Professor Bible of Wisconsin 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.

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. McCARTHY), 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.

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[No. 204 Leg.]

NAYS—39

Anderson
Base
Bayh
Bogan
Brewster
Burdick
Case
Clark
Codding
Douglas
Gowen
Hart
Harke

Inouye
Jackson
Javits
Kennedy, Mass.
Kennedy, N.Y.
Long, Mo.
Magnuson
McGee
McIntyre
McKellar
Mondale
Montoya

Morse
Muskie
Nelson
Neuberger
Pastore
Peil
Proxmire
Randolph
Ribicoff
Tydings
Williams, N.J.
Yarbrough

NOT VOTING—4

Hayden
McCarthy
Symington

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, I have received more letters than I have received by the rising denunciation of the President and his administration for their Vietnam policy from thousands of people who have used the word “impeachment” 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 4. I pointed out that we could not have a recess 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 foreign policy in Asia. I have been answering all of them, and I have written to me suggesting impeachment. Nevertheless, I believe it is in the interest of American universities. 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 a movement that seeks to impeach President Johnson from his illegal war in southeast Asia, even to the extent of circulating impeachment petitions.

Mr. LAUSCHE. I believe it is inexcusable 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 an end to the war.

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 in respect to 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 made his work equal to that of a 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 the essential elements of our system of government.

Mr. MOREE. 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 effort he is making to achieve peace 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 National Oceanographic Council and for other purposes. I ask unanimous consent for the present consideration of the report.

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 conference on the pending question if it is at all possible.

The Senate, in passing the bill, perished in 1965, and for other purposes. The conference report additionally requires, as the Senate bill did, that if a court finds that a test or device has been 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 penalties during the pending question if it is at all possible.

The conference report additionally requires, as the Senate bill did, that if a court finds that a test or device has been abused and breached, and directed that the Attorney General promptly file suit in such cases. This is the approach agreed on in conference.

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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 conferences. I repeat, however, that it is our feeling that the bill as developed by the committee of conference meets an adequate, effective response to a problem which, if left unresolved much longer, could bring disaster upon us all.

Mr. HOLLAND. Mr. President, will the Senate pass it?

Mr. HART. I yield.

Mr. HOLLAND. I voice my appreciation of the action of the conference 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 conferences were of varying convictions upon that subject. But the action of the Senate was quite clear on that subject, and I congratulate the conferences upon having stood their ground on this matter.

Also—and I am not saying this entirely facetiously—I believe the distinguished conferences 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 staunchly 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 instance, he took the position that we as conferences took did not happen to represent the position I took when the subject was before the Senate.

Mr. GRUENING. Mr. President, will the Senate 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 memorandum.

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 conferences.

Mr. GRUENING. I thank the Senator from Michigan.

Mr. MILLER. Mr. President, will the Senate yield?

Mr. HART. I yield.

Mr. MILLER. First, I commend the Senator from Michigan for his able work in the conference, and particularly for presiding over the conference session in 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 error 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 within 30 days of the date of any primary election or general election for President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate or Commissioners from the territories or possessions, or Resident Commissioner of the Commonwealth of Puerto Rico.

Do I correctly understand the meaning of the Senator from Iowa that if the subject was before the conferees, it is 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 conferences?

Mr. HART. The impression or interpretation voiced by the Senator from Iowa is the understanding of the conference. 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 report consolidated this language and 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 conferences 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.

But 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.

Mr. HART. I think that 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. I hope it will 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(e), 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 residence, or for the purpose of establishing his eligibility to vote, or conspires with another to cause 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 within 30 days of the date of any primary election or general election for President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate or Commissioners from the territories or possessions, or Resident Commissioner of the Commonwealth of Puerto Rico.

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

Mr. HART. I yield.

Mr. HRSUKA. As one of the conferences, 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 conferences—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 any matter which is 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 the 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 persons educated in 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 an amendment to 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 who were not able to read or write to determine if they were qualified to vote. What they needed was a way to test their knowledge of English, but by 1937, it had become clear that the 25 percent device would create a presumption of literacy after a certain level of education. The presumption was that those who had received an eighth grade education or its equivalent would be presumed to be literate.

In the case of the bill in question, the problem was not just a matter of providing a test to determine literacy. The bill also contained provisions that would allow registrars to drop individuals from the voter rolls if they were unable to read or write in English. This was a serious problem because it would prevent many citizens from exercising their right to vote.

I believe that the Department of Justice was correct in its argument that the 25 percent device would create a presumption of literacy after a certain level of education. However, the Department of Justice also argued that the bill was unconstitutional because it would favor those who spoke English over those who spoke other languages. The Department of Justice argued that the bill would also violate the Constitution because it would discriminate against those who spoke other languages.

I am not convinced that the Department of Justice was correct in its argument that the bill was unconstitutional. However, I do believe that the bill was a bad idea because it would prevent many citizens from exercising their right to vote. The best way to ensure that all citizens are able to vote is to provide them with the resources they need to do so. This includes providing them with the opportunity to learn English if they are not able to do so on their own.

In conclusion, I believe that the Department of Justice was correct in its argument that the 25 percent device would create a presumption of literacy after a certain level of education. However, I do believe that the bill was a bad idea because it would prevent many citizens from exercising their right to vote. The best way to ensure that all citizens are able to vote is to provide them with the resources they need to do so. This includes providing them with the opportunity to learn English if they are not able to do so on their own.
I believe they will justify our confidence in them by being equally literate before entering 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 not have been 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 experience. The 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 cooperation of the Senate and the House 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, my State, my home and my adopted home of New York from New York. Of all the punitive 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 complacently those who read the Record might learn 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 vote. I know the Senator from Massachusetts done great work on education, on 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 then, Members of the House and the Senate 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 used to refer to them as the "paper" or the "empty" or "nominal" or "technical" right to vote. If this 25 percent rule is not the way to 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 the poll tax in the South and 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 centuries.

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. We do not pretend 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 violation of rights was remedied by 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 power under 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 prophecy 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 annals of legislation, 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. He spent the 25 percent rule. He had voted for the tax poll provision. It was a pretty hard task to eliminate the tax poll 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. It was a difficult task. The chairman of the House had voted for the tax poll 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 said. But it was 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 commendations 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 then they would return to the conference and 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 and the other conferees for having written this 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 have heard about the Senator from Illinois [Mr. DRIKSEN] 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 Senator from Illinois, the minority leader [Mr. DRIKSEN], to the distinguished ranking Republican Representative on the House committee, Mr. MCCULLOCH, and to the distinguished Senator from Nebraska [Mr. HUSSKIA].

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 it was not for the distinguished minority leader and myself, 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. McC Gowan 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. HAYVN] is absent in 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 detailed 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

Mr. DRIKSEN. 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, if 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. DRIKSEN. 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 SamueU; and

S. 1194. 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. 4849) 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 Baglito;

H.R. 2571. An act for the relief of Ralph S. Desormeaux, Jr.;

H.R. 3770. An act for the relief of certain individuals employed by the Department of Defense in the city at the Pacific Missile Range, Point Mugu, Calif.;

H.R. 4078. An act for the relief of William L. Mintor;

H.R. 6877. 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. 7652. An act relating to the income tax treatment of certain casualty losses attributable to major disasters;

H.R. 6219. An act for the relief of Kent A. Herath;

H.R. 8325. An act for the relief of the successors in interest of Cooper Blyth and Grace Johnston Blyth otherwise Grace McCoy Blyth;

H.R. 8351. An act for the relief of Clarence L. Aliu and others;

H.R. 8531. An act for the relief of certain employees of the Foreign Service of the United States;


H.R. 8642. An act for the relief of Col. Eugene F. Tyrre, U.S. Air Force (retired); and

H.R. 10182. 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 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 several read twice by their titles and referred, as indicated:

H.R. 1221. An act for the relief of Betty H. Gowing;
H.R. 1274. An act for the relief of Mrs. Minoriko Miyazaki Williams;
H.R. 1671. An act for the relief of Anna Del Bagvio;
H.R. 2091. 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. Atwood;
H.R. 6327. An act for the relief of E. F. Port, Cora Lee Fort Corbett, and W. R. Port;
H.R. 8292. 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 Johnstohn Blyth otherwise Grace McClay Blyth;
H.R. 8351. An act for the relief of Clarence L. Attu;
H.R. 8352. An act for the relief of certain employees of the Foreign Service of the United States;
H.R. 8840. An act for the relief of Maj. Derrel Treholm, Jr., U.S. Air Force; and
H.R. 8842. An act for the relief of Col. Eugene F. Tyree, U.S. Air Force (retired); to provide a small life insurance policy for former military personnel;
H.R. 8845. An act for correct inequities with respect to the basic compensation of teachers and teaching positions under the Defense Department. To amend the Teachers Pay and Personnel Practices Act; to the Committee on Post Office and Civil Service.

H.R. 7592. An act relating to the income tax treatment of certain casualty losses attributable to major disasters; to the Committee on Finance.

H.R. 9292. 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 teneur 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 PROVIDE FOR THE DEVELOPMENT OF ELLIS ISLAND AS A PART OF THE STATUE OF LIBERTY NATIONAL MONUMENT

A letter from the Secretary of the Treasury, recommending the enactment of a joint resolution 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.

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, Aug. 4, 1965,

That the Senate of the State of Illinois affirms the resolution of the Governor of the State of Illinois, signed by him June 1, 1965, which designated the calendar year 1966 as "The Year of the Bible"; to the Committee on Appropriations.

ARTICLE

Sec. 1. Nothing in this Constitution shall prohibit any State from adopting the plan for apportioning its representatives in the House of Representatives to the Congress of the United States, or from apportioning them; and the following article as an amendment to the Constitution of the United States.

ARTICLE

Sec. 3. 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. 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.

RESOLUTION TO AMEND SECTION 354, TITLE 5, UNITED STATES CODE

A resolution of the Senate of the State of Idaho, which was referred to the Committee on the Judiciary.

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, but not read, and laid upon the desk of the Secretary, 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 maintenance service to 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 entered into by the Atomic Energy Commission or 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 not less than the rate determined by the Secretary of Labor to be prevailing in the locality.

The bill 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 by the contractor to provide benefits determined by the Secretary to be prevailing for such employees in the locality. This obligation may be discharged by maintaining any equivalent combinations of benefits or cash payments in accordance with regulations of the Secretary.

The bill also provides 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 regarding the maintenance work shall not be performed under unsafe or unsanitary working conditions where those working conditions are under the control of the contractor, subcontractor, or surety to recover the remaining amount of the underpayment. The contractor, subcontractor, or surety may be assessed by the Secretary for any resulting cost to the Government.

The bill also provides a procedure for blacklisting service contractors for up to 3 years, those who violate the act, with authority in the Secretary to control and manipulate our poor service employment. In contract cleaning service contracts within the meaning of the Walsh-Healey Act, the Federal Government is in effect subsidizing minimum wage service employees.

RELIEF FOR THE VICTIMS OF THE DEPARTMENT OF LABOR'S TEAM EXPERIMENT

Mr. SIMPSON. Mr. President, I introduce, for appropriate reference, a bill which will provide relief to the victims of the Department of Labor's recent A-team experiment.

On 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 the United States.

The case of the A-team sent from Wyoming to California was one example of the many violations of the regulations and policies of the Labor Department's program and its practices. The Wyoming team arrived in Salinas, Calif., to find that living conditions were unsatisfactory and that no wages could be secured 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 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 criticized the Labor Department for its poor performance. The Secretary of Labor was attempting to blackmail certain growers by forcing them to replace their control labor with inexperienced youths under the guise of the A-team.

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 unfruitful return of the Wyoming team. I got no response from the Department of Labor.

Then on July 21 I requested the courtesy of a reply from the Secretary of Labor. I was promptly 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.

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 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 the Judiciary and Public Welfare.

ELIMINATION OF CERTAIN IN EQUITIES 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 Senator Hart of 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 residence in this country. Under this statute, no such action could be filed 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 the United States after 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. 2384) 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:

SEC. 203. Notwithstanding any other provision of this Act, no alien lawfully admitted to the United States for permanent residence under section 1101 (a) (2) of such Act, or any amendment of such section, shall be deported under such section, or any amendment of such section, if such alien has been physically present in the United States at any time during any continuous period of not less than five years after being lawfully admitted for permanent residence, or if the conduct for which such alien is deported occurred more than five 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. 293. Notwithstanding any other provision of this Act, no alien lawfully admitted to the United States for permanent residence under section 1101 (a) (2) of such Act, or any amendment of such section, shall be deported under such section, or any amendment of such section, if such alien has been physically present in the United States at any time during any continuous period of not less than five years after being lawfully admitted for permanent residence, or if the conduct for which such alien is deported occurred more than five years prior to the institution of deportation proceedings against him."

(c) Subsections (a) and (d) of section 340 of such Act are hereby repealed.

(d) Subsections (c) and (e) of such Act are hereby amended by striking out the following:

"(c) Subsection (c) of such Act is amended by adding:
"(e) Subsection (e) of such Act is amended by striking out "the United States.""

The designation of the calendar year 1966 as "The Year of the Bible" is a fitting recognition of the immense task of translating the Bible into the many languages and dialects of the world. The efforts of the American Bible Society since its founding have been an inspiration to all who believe in the power of the Scriptures to bring people closer together and to provide a unifying force in their lives.

The American Bible Society has been a leader in this endeavor, and I am proud to support an effort to recognize the importance of the Bible in our society.

The joint resolution which I introduce today would serve as a tribute to the notable past achievements of the society, 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 the joint resolution be printed in the Record and 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" was 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:

Hearings of 1964

During 1964 the American Bible Society—

Distributed at home 692,895 Bibles, 1,437,629 Testaments, 4,966,383 portions, and 15,860,966 selections, a total of 29,341,813 Scriptures;

Provided through donor gifts a distribution overseas of 1,118,564 Bibles, 1,102,435 New Testaments, 19,500,464 portions and 7,605,740 selections, making a total of 23,333,705 Scriptures, which represented approximately 1 percent of the total distribution in 150 countries abroad. So that altogether, the
language and dialects

Languages and Dialects in Which the American Bible Society Distributed the Scriptures in 1964—492

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The PRESIDING OFFICER. Without objection, the request is granted, as in the previous 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.

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 3 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. 7594. An act to amend the Communications Act of 1934 to conform to the Convention for the Safety of Life at Sea, London (1960);
S. 588. Joint resolution authorizing the President to proclaim the occasion of the bicentennial celebration of the birth of James Smithson;
H.R. 7595. 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. 681. Joint resolution to amend the joint resolution of March 26, 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 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 pension and education and employment compensation rates payable under such chapter to widows and children of veterans: Mr. Alott, Mr. Bartlett, Mr. Bents, Mr. Bay, Mr. Biemeyer, Mr. Byrne, Mr. Cannon, Mr. Church, Mr. Clark, Mr. Cooper, Mr. Dickinson, Mr. Dodd, Mr. Douglas, Mr. Ennis, Mr. Farnin, Mr. Fulbright, Mr. Harris, Mr. Hart, Mr. Holland, Mr. Inouye, Mr. Jordan of Idaho, Mr. Kennedy of Massachusetts, Mr. Kuchel, Mr. McCarthy, Mr. McGee, Mr. Moakley, Mr. Moats, Mr. Moss, Mr. Moss, Mr. Nelson, Mr. Pastore, Mr. Pearson, Mr. Pell, Mr. Proxmire, Mr. Randolph, Mr. Riehoff, Mr. Saltonstall, Mr. Sparkman, Mr. Symington, Mr. Tower, Mr. Tydings, Mr. Williams of New Jersey, and Mr. Yorkson.

S. Con. Res. 45. Concurrent resolution authorizing the printing of a Senate document as a statement of floor remarks by Members of Congress in tribute to the late Adlai E. Stevenson: Mr. Bartlett, Mr. Bay, Mr. Bents, Mr. Biemeyer, Mr. Byrne, Mr. Cannon, Mr. Church, Mr. Clark, Mr. Cooper, Mr. Dickinson, Mr. Dodd, Mr. Douglas, Mr. Ennis, Mr. Farnin, Mr. Fulbright, Mr. Harris, Mr. Hart, Mr. Holland, Mr. Inouye, Mr. Jordan of Idaho, Mr. Kennedy of Massachusetts, Mr. Kuchel, Mr. McCarthy, Mr. McGee, Mr. Moakley, Mr. Moats, Mr. Moss, Mr. Moss, Mr. Nelson, Mr. Pastore, Mr. Pearson, Mr. Pell, Mr. Proxmire, Mr. Randolph, Mr. Riehoff, Mr. Saltonstall, Mr. Sparkman, Mr. Symington, Mr. Tower, Mr. Tydings, Mr. Williams of New Jersey, and Mr. Yorkson.

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 DIOMDE

Mr. MANFIELD. Mr. President, now and again, mid the hustle and bustle, the stresses and strains of modern-day bohemia, we are reminded that there are some people who live simply and happily and find fulfillment in places that most of us would call unhabitable. 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 16 families of Little Diomede are not, however, far from all the tensions of the big world with which their contacts are few and sparse. Some years ago a family visit to neighboring Soviet Big Diomede resulted in 52 days internment for such visits have since been 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 DIOMDE

(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 DIOMDE ISLAND, ALASKA.—That Little Diomede Island could be inhabited by anything other than cliff-nesting birds seems incredible. It is a 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
By the time I got back down to the village, I photographed the sun at its lowest point. Nearly half of it was visible above the horizon. In the days here I have seen more birds than during the previous years of my life. The air above is constantly filled with birds. They rook like crows, 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 wild 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, to comprehend their attitude toward wild animals. They are considered valuable only for their ivory because their meat is tough and their hides less valuable. Conservation and sportsmanship are recent attitudes accepted by our civilization.

One cold foggy morning I watched as nearlv all the birds came over the little island. I could see hundreds of salmon backs, and the tide was running out. There were no salmon on the reef, 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.

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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?

&quot;You said the only spot on earth from which you might see two continents, two oceans, 2 days, and the two major world powers, but if hunters brought only the ivory tusks from which you might see two continents, two oceans, 2 days, and the two major world powers, but if hunters brought only the ivory tusks they would go out and expect to get back to this little island when you could not see a hundred yards through the fog here.

After hunting all day and all night, men in two boats returned. One boat had taken 44 walrus, using all of the services of the sea. Each hunter took his time to catch the fish, dragging it in a strange oblong bag, 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 decaying dead body of some fellow who had been killed by the other boat, meant that 100 tons of meat, blubber, hide, and nearly as many wounded, were left to rot in the sea.

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 a hunter carves. Last year their carvings brought the village an income of about $5,000.

Bracelets, beads, buttons, letter openers, watchbands, figures for mounting on ear-rings, pickle forks, cocktail sticks, and charms are carved from walrus tusk ivory. The figure of seals, polar bears, and walruses are excellent. Frequently the new white ivory is consider less valuable because their meat is tough and their hides less valuable.

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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 campaign of 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 largely by the big millers and bakers. These are the people who have reaped huge profits from declining wheat prices over the past 30 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 of wheat goes into 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 entitle, "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."

Orville Freeman is one of the Five-star bakers, 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 action soon in the Senate.

This is indeed starting in the Washington of 1965 where, according to the gospel of consensus, big government, big business, and big labor are supposed to come up with an answer. But there is no consensus on the farm front (perhaps because President Johnson takes 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 pay the wheat growers more and have them pass the cost on to the consumer. Hence, foes call this plan the "bread tax."

Actually, Freeman tried an LBJ-style consensus. Early this year, when bread industry leaders called on Freeman to make a deal, the Secretary thought they might accept some variation of the "bread tax." But they didn't.

Several months must 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 provoked 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 preconmon days. The bread industry, which has reaped nearly 20 percent 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 should not be more than seven-tenths of a cent, Freeman implies that the bakers would pocket the extra 1.3 cents. In other words, Freeman is flat out in doubt. Freeman is the clear favorite.

Republican ranks are crumbling. Congressmen can't afford to fight a huge farm subsidy. It was Representative Robert Sore, a Goldwater Republican from western Kansas, who talked the House GOP leadership into sponsoring a stand against the bill.

More important, the bread lobby hasn't been able to get through to urban Democrats who generally favor wheat consumers, not wheat growers, as constituents.

Take the case of Representative Joseph Biscione (Democrat from Dutchess County, N.Y.), whose bakes have been besieged by protest mail (particularly from workers for the National Biscuit Co., Nabisco). In Beacon, N.Y., who 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 noticed that the National Biscuit Co., under your able leadership, seems to have done quite well in recent years. I also note that your profits have 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 will 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 for the past 16 years has held a key post 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 great diplomacy with the various authoritarians like 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 8—Murray Stein, a排骨 and a flasher of a man with a flashing grin and a hardy Brookly accent, is a leader of the Federal Government's campaign against contamination of the Nation's waterways. It is also one of the opening 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 sole purpose of reversing the trend that has turned the Nation's leading watercourses into open sewers. Today he is in Erie, Pa., the opening of 2 weeks of interstate hearings on Lake Erie.

Federal law provides that intransigent polluters of interstate waters can ultimately be convicted of criminal offenses. But it is also a modern-day diplomat. Mr. Stein travels regularly from Washington to the various States with the sole purpose of reversing the trend that has turned the Nation's leading watercourses into open sewers. Today he is in Erie, Pa., the opening of 2 weeks of interstate hearings on Lake Erie.

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Mr. McGOVERN. Mr. President, Mr. Stein and Mr. Kraft are both first-rate minds. I often wonder if we have the facilities in this country that are necessary to make their contributions. I am a lover of liberty and I think the two things that are most necessary for the triumph of freedom are the free flow of ideas and the free flow of men. I think the two things that are most necessary for the triumph of freedom are the free flow of ideas and the free flow of men. I think the two things that are most necessary for the triumph of freedom are the free flow of ideas and the free flow of men.

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CONGRESSIONAL RECORD—SENATE

August 4, 1965

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 a Southeast Asian state that many have sometimes described as the critical battle between China and India. At a minimum the region is a microcosm of the galaxy of competing powers, and its consequences to little groups of men. Far beyond this, it is a study of the Vietnamese war by the Eisenhower-Dulles regime in the West, a vindication of the war against the Vietcong by the United States, and, on some occasions, one of its best-known political figures.

To those who think it does make sense, the book will be reviewed in various journals, and this is an era of the political. The point, however, is that Vietnam is not 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 history is to see how the conflict can be understood even in the journalistical literature which we get in this country is to pass from griffins to centaurs.

For writing a non-mythological political analysis of Vietnam, Lacouture has the ideal background. As a distinguished correspondent in the Far East, he had been to Vietnam repeatedly since the Geneva truce of 1954. He has visited both North and South Vietnam many times. He has written on his subject often and at length, notably in a biographical study of Ho Chi Minh, which appeared in France in 1964 and was a best seller in English in the spring of 1965. He knows all the leading figures on all sides from before the Geneva truce. He knows all the lines of communication 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.
SENATE

19388

1958 we were pacifist opportunists. We hesitated to draw conclusions from the Diemist earthquake. Certainly it is true that the alternative, if it has been obscured by the resolute refusal of most of the American press to study carefully the politics of the war, including the problem of the Diemists. In fact, there remains an alternative well known to all politically alert Vietnamese (though it is difficult to reconcile with the harsh American policy). It is the alternative of negotiations between the Saigon government and the Vietcong. Such talks are an absolute prerequisite to any reconciliation of local differences. However difficult to arrange they may now appear, direct discussions with the Vietcong leaders probably 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 Littlefield, Tex. Without assistance from the Federal Government or the States, 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 of Littlefield residents for the progress of their city in undertaking this progressive project.

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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 revamping their business districts, Littlefield, Texas, was doing something about it.

At a public meeting scheduled at 7 p.m. today in the county courthouse here, details of a beautification plan for Littlefield, a progressive town of 8,000, will be undertaken 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 benches or gardens. Streets will be relaid in white concrete. Then 4-foot sidewalks of colored stone.

The plan calls for free parking and one way traffic flows. The whole area will be lighted with mercury vapor lamps.

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. The money will come from the little old lady who sells the lemon kisses. She has been doing it for 6 months and has raised $20,000. The name was suggested by the Rev. John J. Bonin, who, as chairman of the board, said, "The name is a giveaway to the whole objective." The money will come from the little old lady who sells the lemon kisses. She has been doing it for 6 months and has raised $20,000. The name was suggested by the Rev. John J. Bonin, who, as chairman of the board, said, "The name is a giveaway to the whole objective."

Backers of the project, the business folks of Littlefield, want it because they want the 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 that start of the idea, the percentage of approval has risen.

What exactly will be done? First, the streets will be improved with new sidewalks and new 4-foot wide sidewalks in front of stores will be relaid in white concrete. Then 4-foot wide sidewalks of color ranging from coral to electric blue will be added to the streets. Composition of these sidewalks will be of crushed aggregate in multiple harmonizing colors.

The plan calls for free parking and one way traffic flows.

The whole area will be lighted with mercury vapor lamps, 4,000 lighted lamps.

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The plan calls for free parking and one way traffic flows.
The city will come in with a $50,000,000 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 buyers. It all started when Dr. Bill Jones bought the building site. When the Japanese, in Grand Junction, Col. There he saw an example of what can be done. He brought home in the form of pictures, the data, and began to talk about what could be done for a city, as he sat with friends and businessmen drinking coffee. He said Kenneth Ware was 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 Armstead has been a willing worker. Another strong supporter and worker is Dave Kuefer, general manager of the Countywide News. His editor Tom Donnelly is in the van of workers and supporters. So is city manager, J. W. Harrell. The go-ahead 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 and his supporters have given every indication of the equal citizenship of the new under-represented 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

(Washington, D.C.—A tall, handsome Lindsay-type Democrat has spoken out sharply in suburban interests.

He is freshman Senator Joseph D. Tydings of Maryland, 37-year-old son of the late Senator Millard Tydings, who represented the State in the Senate from 1931 to 1955.

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 amendment," often contend that a fairly apportioned legislature would be dominated by a cohesive bloc of urban legislators controlled by a master politician and 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 16.4 percent of the State's population 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, it has been observed, is the fact that for 30 years the Nation's major cities have been losing population. Chicago declined from 44.3 percent of the State's population in 1910 to 34.6 percent in 1950, and that Chicago has only 35.2 percent of Illinois' population.

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The Senator was discussing the idea of a State legislature, in only 4 of the 332 rollcall votes was there a cohesion of more than 67 percent among the 21 representatives of the 28 suburban representatives.

Dr. Young, the Democratic senator from Illinois, was brought to the attention of the Senate as a spokesman of 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.

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 Health, Education, and Welfare 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 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 huge, and problems have been immense. But the Department's accomplishments have been no less remarkable.

In the case of general Federal aid to local schools, the Administration of school aid will be one of the most important 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. When his predecessor, on the other hand, was 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 has chosen a Secretary who came to his notice as a committed and industrious individual. That Conference had ever received quite so immediate and emphatic a Presidential endorsement of its candidate as has 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 exploit the opportunities of theparochial schools. Both of these issues will take the 3-month vacation.

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 found a man who came to his notice as a committed and articulate reformer in the educational field. The fact that he happens to be a Presidential nominee adds something to the formidable 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 to many people over the past many 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 constant attention. Indeed, 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. Too many people have begun to think of 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 tradition 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 many other problems that need to be provided for men and material alone could delay adjournment.

Putting the question 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, and yet the incumbent 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 during the traditional holidays. That makes the summer months just about the only time they can get together.

INNOCENT VICTIMS OF CRIMINAL VIOLENCE SHOULD BE AIDED

Mr. YARBROUGH. Mr. President, an excellent editorial was published August 1 in the Washington Post by John F. MacKenzie points out that the forgotten person in American society today is the victim of a criminal act. 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 act must bear all the costs even though he be completely innocent. The President gets away to his summer months present the only time when we can get together for a vacation.

In the debate over the rights of an accused criminal versus the rights of the public, is there anything that people can agree upon? There are questions being raised as to the justice of the two systems. 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 another approach by enacting the Compensation Act. That act is experimenting with publicly run compensation plans and a bill to establish an American system has been introduced in the Senate.

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, but there is a lack of any aid for the victim. 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 a Judge and author of recent Supreme Court decisions expanding defendants' rights, said in a speech:

"I believe that we should give serious consideration to providing a minimum of financial compensation for criminal victims because, in a real sense, the law has failed in protecting them."

BROAD PHILOSOPHY

The broad philosophy of most compensation systems seems to depend largely 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. Crime against individuals is not the handiwork of a criminal, but the result of the victim suffers only scratches and bruises or is severely injured and nearly disabled because of hospital expenses, society has a responsibility.

Compensation proposals also are based on the generations of Americans. When an innocent victim is wronged by the handiwork of a President's murder, the public responds with thousands of volunteered dollars. Criminal victims don't get any similar help if their plight were known.

Most compensation plans are not designed to cover all the sufferings of crime victims and depend only on the generosity of 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 only and lost wages.

Some plans are not geared to the victim's economic status, in keeping with the theory that compensation is not charity. Californians plan is based on need and is administered by welfare officials.

All plans are drafted so that the State assumes no absolute liability for injuries to citizens. To keep the plan solvent 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 $1,000 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 Mur­gery 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 citizenship but allows the crimes 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 expenses of medical care.

New Zealand has a similar compensation program which covers a list of specified violent crimes. Official cost figures and evaluations of the plan in operation in New Zealand and other countries shows that payments to victims pay better than had been anticipated.

The Federal Government 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 Districts of Columbia and other Federal territory, but it could be a model for State governments.

The Supreme Court has already well-paid, experienced lawyers would serve staggered 6-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 the Government is trying to compensate 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 takes action.

Another problem—a political one—is that the debate might get bogged down in disputes over whether women have the right to vote 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 distingushed news critics and political commenters, 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 by the gravity of the problem and the need for quick action, the telling as a situation in which the United States would ever find itself. Certainly it is stuck hard in a tar baby.

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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 found, cannot be found in simple 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 1778 when a few women had voted in New Jersey. Since the 1840's suffragettes had been agitating vigorously in the East. A woman suffrage weekly, the Revolution, began publication in New York City in 1868. The Cheyenne Leader, in October 1870, noted: "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 amendment right was voted on in May 1869. The act was adopted:

"We, the people of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

"The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex." - Amendment Fifteen

In other words, women would become American citizens, and they would have the right to vote. The amendment was introduced in the U.S. Congress on May 18, 1869, by Edward Coutant, and passed the House of Representatives on May 20, 1869. It was never ratified by the necessary number of states, however, and was eventually declared unconstitutional by the Supreme Court of the United States in 1871.

The passage of the Fifteenth Amendment to the U.S. Constitution was a significant step forward for women's suffrage and the development of women's rights in the United States. It laid the foundation for the subsequent efforts to secure women's suffrage at the state level and later at the federal level. The passage of the Fifteenth Amendment is often seen as a key moment in the broader struggle for civil rights and equality in the United States.
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 his marriage to Mrs. Margaret Neil 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 marriage, he elected to the territorial council (upper house) of the territorial legislature, his colleagues elected him president of the territorial council and put him on an examining committee to investigate scientific, unassuming presiding officer. Late in the legislative session, he left the chair to introduce the woman suffrage bill. Once the bill was introduced, he did not back down, and this was true for Bright as long as he was around to defend himself. The majority of the legislators, as are several enthusiastic suffrage articles which he published in the Wyoming Tribune. Possibly he wrote Bright's bill, as his relatives said that she was a firm believer in suffrage. 

Another person who might have influenced Bright was his attractive young wife, who was 26 in 1869 when he was 46. Contemporaries said that she was a firm believer in women's rights and that Bright adored her deeply. The fact that she was a suffragist and that the colonel adored her deeply was confirmed by the following letter to Dr. Grace Raymond Hebard, militant suffragist and later secretary to the United States Senate Committee on Woman Suffrage, published in the Wyoming Tribune.

J. H. Hayford, editor of the Laramie Sentinel, in his newspaper columns in January, 1871, and again in January, 1870, claimed major credit for himself. In his weekly column on 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 1879 a pamphlet entitled "9 years of Wyoming Suffrage" was published by Mrs. Morris in Boston. The unidentified author quoted a number of Wyoming people who described the progress of the experiment and generally judged that Mrs. Morris had done more than any other to secure the passage of the woman suffrage bill, and did more than all others to secure its passage.

The satisfaction of most people, Miss Hebard was able to complete the transfer of credit from Colonel Bright to the Mother of Woman Suffrage. Although Mrs. Neil seems never to have been an advocate of woman suffrage, she was known for her public address, and she was always careful to give credit to the female legislators who served in the Wyoming session laws of 1869, 1870, and 1871. Governor Campbell never mentioned her name in Wyoming history books, but she contributed to the suffrage movement. Miss Hebard said that she was a firm believer in woman suffrage and that the colonel adored her deeply. The fact that she was a suffragist and that the colonel adored her deeply was confirmed by the following letter to Dr. Grace Raymond Hebard, militant suffragist and later secretary to the United States Senate Committee on Woman Suffrage, published in the Wyoming Tribune.

Sheeks said he thought Esther Morris was a "manly woman." 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 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 in 1869, 1870, 1871, and 1874. Governor Campbell never mentioned her in his diary for the years 1869-75, although he mentioned many men and women by name 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 Bright was "We don't want any agitation," and this was confirmed by the fact that she was known for her appearance.

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 arguments in favor of major credit for woman suffrage in Wyoming to Bright and further credit to the other legislatures are probably better than the arguments for Bright's approval, which was never given.

Although Mrs. Neil seems never to have been an advocate of woman suffrage, 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 juror. The list of jurors in the papers of the 1870 census shows that she was on the jury that served in the Wyoming session laws of 1869, 1870, and 1871. Governor Campbell never mentioned her name in Wyoming history books, but she contributed to the suffrage movement. Miss Hebard said that she was a firm believer in Woman Suffrage.

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The women of Wyoming had their first opportunity to vote in September 1867. Doubts as to whether many of the eligible stated that the women divided their votes in 1869 for the Territorial Legislature came very near ending the experiment. Governor Campbell's veto of the repeal measure failed by only one vote. However, only one member of the 1869 legislature was back in 1870, not because of voter rejection, but because of better order at the polls. The only perceptible difference, said the Leader, was the maintenance of better order at the polls. The Democratic, the Cheyenne Leader, 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. All of the editors agreed that the presence of women inhibited drunkenness and rowdiness 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." Judge Jones apparently did not remain, after voting, around the polls more Sunday than election day.

And so the women provided encouraging answers to the question of the presence of women 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 appeared in the press, but the advertising bonanza looms large only when the long-term accumulation is taken into account.

The woman suffrage weekly, the ‘Reformer’ that was the first use of women on a jury in Wyoming, interviewed 84 leading male newspaper comment. The New York Times gave brief front page notices to the first use of women in the law about equal pay adopted in 1869, the same work, much less is paid (even 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, is 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 L. Lee, one of the leading lawyers, writing in his Wyoming Tribune that 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 the women 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 L. Lee, one of the leading lawyers, writing in his Wyoming Tribune that 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."

"Getting the right to vote did not mean immediate economic equality. In March 1874, Herman Glafke, the new editor of the Cheyenne Leader, complained that, despite the law about equal pay adopted in 1869, the pay was as well done by women as by men. Women teachers, he said, received barely more than half what was paid to men. 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 enroll women as electors and nominated members of their sex for public office after they found that they had no chance for election except to the position of county clerk. In 1871 the Laramie women ran for the territorial legislature in 20 years, one received 8 votes, the other 5, while the 6 Democrats cast 97 votes for reelection.

Three women were nominated for the State constitutional convention in 1888, but they were not elected. Meanwhile the women had given women the right to vote and hold office in 1869, they did not make the women equal partners in the civil rights movement. Some of the women of Wyoming soon learned that the men, who were in an overwhelming majority, were not interested in having women engage in public affairs; that they did not want women to vote on questions of legislation; they were no more willing to vote for women candidates for public office than were the Republicans.

Satisfied with the experiment so far, the all-male convention in 1889, with only token opposition, included woman suffrage in the constitution. The woman suffrage movement in 1885 to collect material for a history of Wyoming. Meanwhile the women had given women the right to vote and hold office in 1869, they did not make the women equal partners in the civil rights movement. Some of the women of Wyoming soon learned that the men, who were in an overwhelming majority, were not interested in having women engage in public affairs; that they did not want women to vote on questions of legislation; they were no more willing to vote for women candidates for public office than were the Republicans.

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Although she was elected on the same day as Mr. Edward H. Kemmerer of Wyoming, Governor of Texas, Mrs. Ross was acclaimed first woman Governor because she assumed office 20 days before Mrs. Ferguson. Party boundaries seemed to have been of little importance. Ramsay McCormick of Cheyenne, Wyoming, a Democrat, became Vice Governor, and Mrs. Ross was accorded much favorable publicity outside the State during the next 2 years.

Mrs. Ross' critics, her husband, 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 promised a new political legislation elected by her husband for a 4-year term, while the Republicans in the 1925 legislature showed little similarity to the Governor's message. Appropriately, in 1926 her party nominated her for the message that he had a woman for Governor, but I am not entirely certain of her message by extensive notes assembled by her husband's administration the next 2 years.

Mrs. Ross' critics charged that she had not given women a chance to demonstrate their capacity for public office, that she had appointed 174 men and only 2 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. Hule, Attorneys General David J. Howell, and Interstate Streams Commission S. G. Hopkins.  

Frank Emerson announced that she stood as Mrs. Ross easily ran the race, but she lost by 1,355 votes. She lost not because she was a woman, but because she was a Democrat and because she could not avoid being blamed for the State's economic aches and pains. She 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 1966: "We women have 19 years to be grateful for all that the wonderful people of Wyoming have done for me."  

What is the status of women in Wyoming? "The percentage of employed women is low because of the industrial pattern—the leading industries are mining, oil and other mineral production, and agriculture and livestock, offer few opportunities for women. Perhaps this should leave women more 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 1966, recently appeared in public speaking engagements. After remarking that she was accustomed to stepping aside for the men, she conceded that she was not the first woman to hold the position. A woman who was elected speaker, was a better parliamentarian and a more aggressive party leader. Reminiscent of much that was said of women at that time, she could not avoid being blamed for the party's failure to gain momentum in the legislature. Mrs. Wilkins expressed concern to the author that she had relied mainly on advice from O'Mahoney and Howell.

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 have created a republic, and fought for 100 years against constant encroachments before it became a popularly elected 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 political stability. In 1963, faced with serious financial difficulties caused by rapid economic growth, the Liberians showed themselves willing and able to adopt a stringent austerity program. Liberia and the International Monetary Fund, a debt repayment schedule was stretched out. But Liberia's long-run prospects are...
This is my one outstanding impression left from months' travel "around the rim" of China.

Communist China already dominates the thoughts of Asians—not only those who are actively engaged in the overthrow of those who are in power, but those whose positions are in between. Chiang Kaishek's Nationalist China is rarely mentioned. The thought of any important role for the future.

But Asian acceptance of Peiping's ultimate influence is not limited to anti-American or want the United States to go home. Nor are they prepared to throw in the sponge today as Cambodian Prince Sihanouk believes his President Sukarno appear to have done.

However certain they may be that Communist China will come to dominate Asia, they that want peace 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 belief is that after the Mao Tse-tung era—if not immediately, then ultimately—a less militant China will emerge, just as the Stalin era made Russia easier to live with. In short, Asians appear converted to the thought that China can, should, and must, delay and temper China's upward swing. But they are equally convinced that in the long run America cannot prevent it. A diagnosis such as this about Asia, with its vastness, rivalries, feuds, ambitions, divisions, and complexities, is hazardous and subject to violent and rapid change.

There are few common bonds among China's Asiatic neighbors, except that they regard the United States as their most important ally. In most 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 cleavages 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. Nevertheless, revolutionary nationalism, even when fomented by Communists, has the great appeal. More than negative concepts of the past, revolutionary fervor is to be useful. The status quo (even when good in our eyes) is not good enough. The fundamental change 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 Communist China will dominate the continent in the distant future is the theory strongly held by even our best Asian friends that we are maintaining the status quo, and thus the influence there is near an end. Thus, the appeal of Peiping's propaganda slogan, "Asia for the Asians," is not always impressed.

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 countries.

A veteran diplomat in Pakistan, for example, is convinced that if the Pakistanis were faced today with a choice between tak­ing their chances with Communism, China, or facing American intervention as in Viet­nam, they would prefer to take their chances with the Red Chinese.

Vast changes in Asian thinking are taking place. Compared with 10 years ago, the vast crescent of land that encircles half of the inhabitants of the Chinese mainland is a different world—physically and in thought. The 20th century is creeping even into the minds of those who have no sympathy for the Red Chinese.

Forces, both for good and evil, are at work which the Asians themselves, as well as the United States, find difficult to understand. When there are no experienced and 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 in an effort to force their full income tax assessments. Particularly small taxpayers, have nothing to worry about.

As a result of the recent hearings on IRS tactics, I have received much mail from taxpayers in my state of Missouri, who state that they have been harassed by 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. Accott of the small taxpayer center 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.

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 Representatives Frank Evans of Pueblo, Colo., are familiar with our case. If you wish to verify our statements, we are ready to help.

We are also enclosing an editorial from our local newspaper which explains our situation—we have been strafed to send this article to anyone before, for fear of what the Internal Revenue Service would do to us. As far as we know, all the farmers in the Arkansas Valley are deducting their entire water assessment as business expense and this procedure was never questioned.

In the case the Internal Revenue agent had audited other returns on our own ditch and on similar ditches and allowed these deductions, why is it not proper for us to deduct our 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 of taxes, which was small, only $135; and several times he stated that we as taxpayers had no rights. Our statement of this treatment was mailed to the headquarters of the telephone company. We failed to see why all these telephone calls were necessary. He would let enough time lapse between one call and the next one, 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 make the matter worse and that 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 600-mile roundtrip to Den- ver for another conference with them, though the trial date for our case is set up in Tax Court for about November 15. It is very evident that the men think we will be more cooperative or more callous during the busy summer season, what with irrigating, haying, and other farmwork, for a conference at which no pretrial settlement would be reached. Their request is that the Internal Revenue Service requests of a taxpayer.

It is also particularly significant 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 a 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 aid in improving Internal Revenue Service policies.

Very truly yours,

ROBERT L. and MAR 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.

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Employee testifying before a judiciary subcommittee which has heard that IRS agents used electronic eavesdropping devices and questionable investigative methods. Then again, this was turned over to a Treasury Department "snooper school."

The subcommittee completed a 3-day inquiry into the Boston Internal Revenue Service office which handles claims for the Highland Irrigation Co. at Lamar at various intervals and advised us that we should pay the amount of taxes, which was small, only $135; and several times he stated that we as taxpayers had no rights. Our statement of this treatment was mailed to the headquarters of the telephone company. We failed to see why all these telephone calls were necessary. He would let enough time lapse between one call and the next one, 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.

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ROBERT L. and MAR V. HUNTER.

Robert Hunter has been victim of harassment by Internal Revenue Service

(From the Pueblo (Colo.) Democrat-News)

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having it converted into the Harkness House for the Ballet. It is, when all is said and done, in the fall, as the home of the Harkness Ballet and as a center for ballet seminars, workshops, lecture-demonstrations, and many other dance-related activities. This is a major development, and the students will foster not only ballet but music, design, and literature as they relate to ballet.

"The Harkness Ballet house," the "airs and graces of a palazzo," maybe it'll be criticized for its elegance but I do think that beautiful surroundings are important to the working artist. And I'm not enough of a nut to believe that the incontrovertibly erroneous notion that dancing for men is subjected to a kind of eunuchism is a cause for grief or any serious when I use the word 'working.' I mentioned earlier, didn't I, that I'm not concerned with the artist as a small part 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 is comparative the inspirational.

"I'm not 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-biology-chemistry or what? But if talent is there, it needs time to grow. Nobody can put talent into another being. My role 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 does deserve 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 performers the time to work out their ideas and, if they have that mysterious thing, if they have something to say, this is the opportunity to do it in whatever way they choose. 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 fun for the many married couples in her troguard—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 by the "Goldens," the second Harkness Ballet tour of Europe and 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 Foundation Dance Grant for Mr. McKayle, a new work, a pair itself.

Progress will not be dramatic. It will, in fact, be painfully slow. One of our biggest enemies will now be impatience and despair itself. It is not, 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

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 be printed 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 Captain James P. Spruill to his family. These were wonderful letters, those letters, and the art of the letter have, over the years, brought so much encouragement, in financial help and stimulation.

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 with courage and enthusiasm.

Without that thought I may not have made it. Later on in the day, I crossed a stream over a bridge. There was nothing to do but hold your breath and walk under the water and hope that you hold out until your head comes up again."

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 and I am where my destiny has led me, and I have no regrets except my painful absence from you, Billy Goat, and Punky Bear.

With a lot of love, your GI in Vietnam, James Spruill.
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 preceded officially by 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 Yarbrough has been pushing for so long. Since then Mr. Yarbrough 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 Yarbrough GI bill, would fill the gap left by the expiration of the Korean war GI bill. The next step is up to the House 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 Yarbrough 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, the possibility that they may be tripped within a short time, it is time to get a small beam of light focused on Senator Ralph Yarbrough’s cold war GI 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 a GI bill.

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 it? Will the House of Representatives intend to do about them?
These associations and observations have led me to two conclusions about the Mis­
tivity process demanding imagination and crea­
tivity and dedication from the premise that what's good for the hard work.

farm families of Missouri and the Nation is the potential for long-term gains and in the whole of agriculture; and I've seen you apply mendable standards, you have my admiration for a quarter of a century-have contributed agriculture policies and programs of the ally recognized agricultural leader.

1960's.

Heinkel.

man of the advisory committee which played equality equalling that of our present feed bringing farm production policy into har­
grains program.

Along the years since 1961, was Fred than you. And no one has done more for American agricul­
time we discussed what needed doing decade of the

farm system.

Today's income is better than that of

years, when gross farm income was $4 billion as compared to 1960, all increased their expenditures for automobiles by over $600 million and boosted other expenditures 1950. The amount of income from which the farmers' income is $400 million. Better living on the farm means better living in St. Louis, Kansas City, Detroit, and Rock Island.

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 13.3 percent of income after taxes. In 1960, food required 20 percent—and the diet contained less beef. If the same per­
centage of income were being spent for food in 1963 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 surplus abound the whole of our society, the public, public assis­
antance, and our school children. The USDA's food programs are now reaching over 40 million American adults and youngsters each day. Sales through these domestic programs has in­
creased from 900 million pounds in 1959-60 to 2.1 billion pounds in 1964-65. In addi­tion, farm preservation 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 $4.6 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 contri­
bution to a favorable balance of payments. From a humanitarian standpoint and from a commercial standpoint, the rehabilitation and utiliz­
ation of American food and fiber abroad contains the greatest opportunity for maxi­
mum use of our exportation plant. In this effort there is need for the facilities and the skills of our cooperatives, and the interest demonstrated by MPA is most welcome.

The supply-demand relationship is better than it was. Surpluses are down. Carry­
over stocks of grain by the end of the year will be at the lowest level since the mid­s　1950's, which means greater farm price stability and a cut in storage and handling costs for farmers.

We can take pride and satisfaction in these achievements.

What can be 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 the operators of the growing numbers of adequate family farms. It 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.

If we succeed in maintaining the farm in­
come gains of the past 4 years, if we continue to work toward full parity of income opportunity for the opera­tors of the growing numbers of adequate family farms, this will be a matter of both humanitarian and eco­
matic concern to nonfarmers, because if farm families are to contribute to the entire Nation, to what such a blow to the farm economy would mean to the whole of the country’s economic well-being.

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 eco­
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Failure to act will be catastrophic to both. Studies made by the Congress, by univer­
yeconomists, 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 this around, and ask the the entire Nation, to what such a blow to the farm economy would mean to the whole of the country’s economic well-being.

If the farm credit situation is most revealing:

On January 1, 1965, the total farm debt among 4.3 million farmers was $36.7 billion, or 4 percent more than it was just 5 years ago. It is nearly 300 percent over the farm debt total of 1960.

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The times of truly great tragedy in rural America have been the times of mass fore- closure, poverty, and despair. In other areas across the land, scars still remain as a reminder of the last time an accelerated downward grading 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.

This year's big issue is how 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 would be unfortunate if it were to be watered down at any point. If, on the other hand, the food abundance and fair prices consumers now accept as casually as the air they breathe were to disappear, we would be strictly guarded homeland.

If we fail to respond to both the responsibility and the opportunity contained in the food and agriculture bill now before our Congress, we must recognize the contours 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 believe in the 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 hope. The free and prosperous people of rural America, an abundance of good food at fair prices; and, giving 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 farms 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 younger than Chinese, was contained in Europe by 20 years of Western force and firmness and is now beginning to assume the same menacing role in the noncommunist world. The Russian example of a mature revolution, a generation older than Chinese, was contained in Europe by 20 years of Western force and firmness and is now beginning to look like a combination 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 a 'peaceful' victory could mean more revolutionary than their predecessors.

If their prospect is indeed one where the rim of Asia is a strongly guarded homeland of free and prosperous people, the 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 specter of the doomsday bomb, it is necessary to point out that Russia has no intention of dropping the atom bomb.
the Vietnam war will last for "months—or years—or decades," and such speculation is indeed fruitless 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 purposes and the interests are not mutually exclusive but global, and that American freedom cannot be protected at the cost of those whose freedom we are pledged 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 Magnon, 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 in the Coast Guard and was released as 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.

But, for 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 62-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 and of the entire 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 around the world.

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 fermentation, tentatively exploring the meaning of 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 Senate will be interested to read the Vice President's full Senate address, which I will ask unanimous consent to print 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 students in every corner of America and I think you will gain, as I have, from your association with these fine young people.

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 for yourself the great task that the country will put this experience to good use. At the risk of sounding like a commencement speaker, I will say that your generation faces the test of involvement. The test is what is happening around you—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 future of individual man as well as our society, as a whole.

There is no question, in my mind, that your generation is indeed a generation of change. 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 self-esteem, as approved 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 not just for them but 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 to others, "Let's just keep it for ourselves." This generation, the President has said, may well become known as the volunteer generation.

International political crises can develop and indeed did develop in the time I used to take for an ambassador to a small country to draft his longhand report on a local uprising. As ambassador I was concerned by the signs and symptoms of this bold and idealistic experiment.

When VISTA—the volunteers in service to America—was launched, more than 8,000 individuals were recruited from young people on the first day of business.

These were volunteers for jobs without guaranteed need, 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, exhaustion and disorganization are the things we want to eliminate... No volunteer can hope for absolute success, nor can he expect most 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 self-lghtened, 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 determination of America's Negro teacher who sincerely seeks to effect progress. As the President's call for the abolition of discrimination in education is reaffirmed, the American Negro is fighting for it. 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 revision 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" and "one of 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 possessed the American colonists and won the Revolution even before it was fought... a spirit which is reflected in the life, in particular the life 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 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 thought that went into the work introduced by 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 this editorial, which appeared in the Blackfoot News, July 20, 1965, printed in the Record, as follows:

"One of the most disturbing stories to come out of Vietnam recently was that written by Associated Press Writer John T. Wheeler and carried on the front page of the Blackfoot News.

"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 in a state of sad surrender of guilt and shame—a burden of every American—will not be purged of the more profound effects of systematic discrimination on the social and family life of the African Negro.

"This burden of guilt and shame 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 of the more profound effects of systematic discrimination on the social and family life of the African Negro.

"The Teacher Corps will enable talented young people and experienced teachers to work 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 America and that the American Negro, who has suffered for so long under second-class citizenship, will accept 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 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 America and that the American Negro, who has suffered for so long under second-class citizenship, will accept it, is fighting for it."

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 Vietnam recently was that written by Associated Press Writer John T. Wheeler and carried on the front page of the Blackfoot News.

"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 in a state of sad surrender of guilt and shame—a burden of every American—will not be purged of the more profound effects of systematic discrimination on the social and family life of the African Negro.

"The burden of guilt and shame 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 of the more profound effects of systematic discrimination on the social and family life of the African Negro.

"The Teacher Corps will enable talented young people and experienced teachers to work 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 America and that the American Negro, who has suffered for so long under second-class citizenship, will accept it, is fighting for it."

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 wide ranging logistic duties 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 need for better weapons, equipment and supplies 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 a third 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 $433,300,000.

During fiscal year 1965 total military and civilian manpower decreased 5 percent from 172,500 to 163,000. From a 1962 look at 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 900 individuals in the AMC's administrative staff were accomplished during fiscal year 1965 to reduce installation support costs. These actions, ranging 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 to meet requirements in support of effective was put to a test, when troops were dispatched to the Dominican Republic. Initial weapons and equipment to meet requirements in support of "Operation Sea" was a test 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 supplier 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 1963, 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 the Persian Gulf—must be supported by new aircraft, and existing equipment must be adapted to a continuous program to improve existing aircraft equipment and perhaps he even flown before 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 helicopter. Initial achievements have included new aircraft, landing gear, and the Completion of scheduled overseas deployment of new family on FM radios, four general purpose vehicles, and the Sergeant, Pershing, and Hawk missiles.

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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, reports 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 weapons 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 tremendous quantity of Canadian 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 main attraction missing from 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 as these stocks because 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 to $15 per ton 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 it is now Indian. The U.S. 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 at least 40 cents more per bushel than on U.S. flag vessels and 25 cents per bushel on foreign ships—compared to a difference of 25 cents per bushel.

This means that on a large cargo, shipped 50 percent in American bottoms, U.S. wheat would cost $6.65 per bushel, and $6.15 per bushel to Eastern European importers 11 1/2 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 can determine the sale of a million 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 $18.5 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 amount in terms of employment 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 addition, 2 million metric tons of wheat in addition to what she imported the previous year. These purchases included 1.4 million tons from Argentina, 28,000 tons from Canada, 750,000 tons from Australia, and 325,000 tons from the United Kingdom. Additional purchases have been made by the Russians from the United States.

In addition, the other European countries of Czechoslovakia, Hungary, Bulgaria, Poland, East Germany, and Italy 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 a 50 percent U.S.-flag "tramp" ships compared with world 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 have 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 on the grain exporters, farmers, grain 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. exports, as compared to over 50 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 agreed upon 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 basic agricultural product is involved. The only reason 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. Improved 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 possibilities would 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 our competitive differential 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 1 1/4 billion bushels. We will use about half of it for food and seed. American farmers could market millions of bushels of wheat in Canada, Eastern Europe, and the U.S.S.R.—to say nothing of China—if we could somehow persuade the Department of Commerce and the maritime industry, including its labor force, to give us 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 more than 1 billion bushels. The Russians are now obviously in the Soviet Union. They could get 2 million tons minimum of such a volume of business, or at least 7 million bushels, were it not for our self-defeating discriminatory shipping requirement.

The determination has already been made that sales of food to the Eastern bloc nations is in the national interest.

The U.S. government is already having to ship wheat to other countries at the same rate or near to the same rate as if the embargo were in effect. This is a meaningless policy.

The issue was finally solved in part by the U.S. Department of Agriculture's acceptance of a high bid for exports of wheat to the United Kingdom. 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.

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The regulation, therefore, is not in ex-
stance 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 Na-
tion, 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 con-
sequence 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
export capacity of the remaining
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 with contracts in place,
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
25 million bushels for its own use, virtually all of it fol-
lowing the disastrous crop failure in 1963. Other Eastern European
countries (excluding Albania) are losing 425 million bushels more.

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of farm operations; and, most importantly, increase the total investment in agriculture by 71 billion rubles ($78.9 billion) over the next 5 years. China's new five-year plan is being formulated in the wake of the Chinese government's decision to put agricultural reform at the head of the country's priorities. The Chinese government has set a goal of producing 700,000,000 people by 1965, much of the harvest being sold for hard currencies to Hong Kong, Macao, Malaysia, West Germany, and the Benelux countries. The new plan will be based on 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 have been able to sell 120,000 metric tons of wheat for over $70 a ton. The calories are less—\[367,000\]—and China can't afford the rice against 330 calories for whole-grain wheat.

Future West-East movement of wheat probably will be a plus—though it must be remembered that many earlier plans for improving Russian agriculture have not been realized. But the 1965 winter freezes also has begun to step up fertilizer production potential, 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. As the U.S. Department of Agriculture has observed, China's production is winter wheat. It is produced in a high-risk area that takes in much of north China, extending southwest to central Szechwan Province and the western boundary of Shensi Province. Drought is a serious additional problem, especially as the growing season is subject to periods of unusually wet weather, followed by floods. Insect damage and loss of grain from rust occur frequently.

Much of the 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 Russia, however, even more than Russia's, has suffered from underinvestment and overregimentation, but the situation is improving. 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 695 million. This year it is 750 million, and by 1970 it is expected to be 877 million.

The Chinese Government is trying to restrain the growth. It has established birth control clinics throughout the country; it has cut off supplies of contraceptives; and it has set the marriage age for girls at 18 years and for men at 22, but has encouraged young people to postpone marriage and as an articulate advocate of improvements in the present economic policy.

Mr. Gardner will take over an enormously difficult assignment. The government has long been burdened 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, the President's personal interest in the job, and, second, because Congress is now putting the final touches on a measure that will give him more power.

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 Mossie'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 WATER MOSSIE, 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 apparently has not resulted in an increase in traffic cases taken to court, or the actual crackdown began that December when he asked the District commissioners to send him a weekly report on all adjusted tickets.

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 record be printed in the Record, as follows:

TRAFFIC FINES INCREASE $436,400 SINCE MOSSIE'S ANTI-FIXING CAMPAIGN. (By Helen Dewar)

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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 of the "fixed" 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 of 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 space.

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 Officers" 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 to be my duty to park in such spaces as officials of the Treasury Department and the Budget are using. 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. The square containing Sherman's statue.

It would seem to me that there are 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 irritation. I would like to have 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 red on the sign, "Parking 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 be given some kind of exception when I park in the Government zone by 4 p.m.

Mr. President, I have on my desk some other 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 declaring 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 their official capacities 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 two blocks 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 tall tales about 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 some areas where they know 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 alibi of some sort and 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 to 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 needed 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 that 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 do not think we are 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.

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
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business for U.S. Marshal's office," serving process at 3117 14th Street, NW.

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. He is 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 and ask some questions in regard to a tax violation, that he should start his car in a zone which the ticket states, 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 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 and other city 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 APPOINTMENT

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 have been more clearly stated. I 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? 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 Rhode Island denoted 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 an awareness and 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. Provisors 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 closure 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 voted 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 the 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 beget, in us and in our community, some new unveling 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 single and unaided need.

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 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